

FORM AND STYLE MANUAL FOR LEGISLATIVE MEASURES

**Prepared Under the Direction of the
INDIANA CODE REVISION COMMISSION**

**By the
OFFICE OF CODE REVISION
LEGISLATIVE SERVICES AGENCY**

**Approved by the
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September 23, 1999



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FOREWORD

This manual was prepared by the Indiana Legislative Services Agency under the direction of the Code Revision Commission (IC 2-5-1.1-10), which "functions as an advisory body to the legislative council ... [to] assist the council in developing and revising standards, techniques, and format to be used when preparing legislation for consideration by the Indiana general assembly ..." On September 23, 1999, the Indiana Legislative Council met and approved this manual for use in the preparation and review of legislative measures.

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Chapter 1. General Information

A. INDIANA CONSTITUTION

(1) Introduction

The Constitution of the State of Indiana was approved in convention at Indianapolis on February 10, 1851, and was adopted by the electorate, effective November 1, 1851. It superseded the 1816 Constitution. The Constitution sets forth the basic structure of Indiana government and the rights, powers, privileges, and immunities granted the citizens of Indiana. Constitutional provisions supersede all other state law. The text of the Constitution can be found in the front of Volume I of the Indiana Code. Constitutional amendments adopted after 1998 can be found in the annual cumulative supplement to the Indiana Code.

(2) Arrangement

The Constitution consists of a Preamble and 16 major groupings called Articles. Each Article is composed of smaller individual units called Sections. Material that is temporary, implementary, or transitional in nature is included in a schedule that immediately follows the particular section of the Constitution to which it is related.

(3) Citations

To cite a particular Section of the Constitution, refer first to the Article and then to the Section.

Example: Article 1, Section 22 of the Constitution of the State of Indiana

B. INDIANA CODE

(1) Introduction

The official Indiana Code (IC) was enacted by the general assembly and signed into law January 21, 1976. An official edition of the Code is published under the authority of the Indiana Legislative Council every six years. The Code contains all general and permanent statutory law. All statutes are considered to be of a general and permanent nature unless they:

- (a) are effective for a period of less than five years;
- (b) provide for transitional, implementary matters in an otherwise permanent statute;
- (c) apply to special cases; or
- (d) terminate by implication when their purpose is fulfilled or ceases to exist.

All laws of a permanent and general nature are drafted as amendments to the Code. Statutory laws not included in the Code, such as transitory and temporary laws, are known as noncode provisions. The 1998 Edition of the Code consists of a base set of 15 volumes updated with an annual cumulative supplement. The next official edition of the Code will incorporate all of the annual supplements published since 1998.

(2) Arrangement

The Indiana Code consists of major groupings of law called titles that are numbered 1 through 36. Each

title contains one or more articles, each article contains one or more chapters, and each chapter contains one or more sections.

(3) Citations

The Indiana Code numbering scheme involves use of numbers separated by hyphens. A four-part numerical citation is used for statute sections. The contents of a chapter are indicated through use of a three-part citation and of an entire article by use of a two-part citation. Reference to a title is by a one-number citation.

Example:

IC 4-3-2-1 refers to Title 4, Article 3, Chapter 2, Section 1.

IC 4-3-2 refers to Title 4, Article 3, Chapter 2.

IC 4-3 refers to Title 4, Article 3.

IC 4 refers to Title 4.

The letters "IC" should always precede a citation to a Code section, chapter, article, or title, except when using internal references [See Pages 29-30].

C. SESSION LAWS (ACTS)

(1) Introduction

The enrolled acts of each legislative session that become law are bound together, assigned public law numbers by the Office of Code Revision, and referred to as "Acts 20__". The most important use of the Acts is to locate temporary or special provisions that are not included in the Indiana Code. These noncode provisions include almost all appropriations and transitional provisions as well as any other statutes effective for a period of less than five years. The Acts also include an index and tables showing affected Code citations and converting numbers to the corresponding public law numbers.

(2) Arrangement

The Acts of each session are arranged into three categories: first, acts of a permanent nature that amend the Indiana Code; second, acts that are temporary or special in nature and that do not amend the Code; and third, joint resolutions. The text of all acts that amend the Code is arranged, insofar as possible, in the order of the Code itself, i.e., acts affecting Title 1 followed by acts affecting Title 2, etc. Note, however, that this arrangement is determined only by the first provision affecting the Code within each act, and later provisions of that act may affect different sections, chapters, articles, or titles of the Code.

(3) Citations

If the occasion arises for using an "Acts" citation to refer to a noncode provision or to identify a provision published in the session laws, use one of the following forms:

(a) For acts enacted before the 1971 Indiana Code, the proper citation form is as follows:

Example: Acts 1953, c.20, s.2

(b) For acts enacted beginning with the enactment of the 1971 Indiana Code and through the 1982

Regular Session, the proper citation form is as follows:

Example: Acts 1982, P.L.33, SECTION 22

(c) For acts enacted beginning with the 1982 Special Session, the proper form is as follows:

Example: P.L.74-1983, SECTION 10

To indicate a special session of the Indiana general assembly, use the designation "(ss)" after the year.

Examples: Acts 1981(ss), P.L.1, SECTION 1 P.L.3-1982(ss), SECTION 5

D. INDIANA ADMINISTRATIVE CODE

(1) Introduction

The Indiana Administrative Code (IAC), which is published under the authority of the Indiana Legislative Council, is a compilation of the text of all Indiana administrative rules. The first official edition of the Administrative Code was published in 1979. The 1996 Edition consists of a base set of 14 volumes updated with an annual cumulative supplement and the Indiana Register.

(2) Arrangement

The rules are organized according to adopting agency and classified under a numbering scheme with a four-part numerical citation. Each agency has been assigned a title number with all rules of that agency classified under that title. Agencies with related subject matter are grouped together. Each title contains one or more articles, each article contains one or more rules, and each rule contains one or more sections.

(3) Citations

Use a citation form containing the designation "IAC" following the title number to indicate that the Indiana Administrative Code is cited. Article, rule, and section numbers are separated by hyphens.

Example: 595 IAC 1-1-1 refers to Title 595, Article 1, Rule 1, Section 1

E. INDIANA REGISTER

(1) Introduction

The Indiana Register is a periodical publication of the full text of proposed rules, final rules, and other documents such as executive orders and Attorney General's opinions. The Register has been published monthly since July 1, 1978. Final rules published in the Register are later codified in the Indiana Administrative Code. In a sense, the Indiana Register can be considered an "advance sheet" to the Indiana Administrative Code. However, executive orders and attorney general's opinions that are found in the Register are not subsequently published in the Indiana Administrative Code.

(2) Arrangement

The Indiana Register is arranged with the publication of final rules first, followed by proposed rules, attorney general's actions, and nonrule policy documents. Also included in the Register are reference tables

and an index.

(3) Citations

To cite to the Indiana Register, use a citation form containing the designation "IR" following the volume number of the publication to indicate that the Indiana Register is cited. The page number of the publication follows the IR designation.

Example: 22 IR 1000 refers to Volume 22, Page 1000

(4) Voiding Administrative Rules

To void an administrative rule, the following language should be used:

SECTION __. [EFFECTIVE JULY 1, 2000] **410 IAC [410 IAC 4] [410 IAC 4-1] [410 IAC 4-1-1] is void. The publisher of the Indiana Administrative Code and Indiana Register shall remove this title [article] [rule] [section] from the Indiana Administrative Code.**

F. TYPES OF LEGISLATIVE MEASURES

(1) Introduction

The general assembly may take action on bills, joint resolutions, concurrent resolutions, and simple resolutions. Any of these measures may be introduced in either house, except that bills to raise revenue may be introduced only in the house of representatives (Article 4, Section 17 of the Constitution of the State of Indiana).

(2) Bill

A bill must be used to enact a law (Article 4, Section 1 of the Constitution of the State of Indiana). A bill that passes both houses in identical form must be presented to the governor for approval (Article 5, Section 14 of the Constitution of the State of Indiana).

(3) Joint Resolutions

A joint resolution, which must be adopted by both houses to be effective, is used to:

- (a) amend the Constitution of the State of Indiana under Article 16;
- (b) ratify a proposed amendment to the United States Constitution;
- (c) apply to the Congress of the United States to call a constitutional convention to consider an amendment to the United States Constitution under Article V of the United States Constitution; or
- (d) remove state officers under Article 6, Section 7 of the Constitution of the State of Indiana.

Joint resolutions are not required to be presented to the governor.

(4) Concurrent Resolutions

A concurrent resolution, which must be adopted by both houses to be effective, does not have the effect of law and is used to express the sentiment of the general assembly. Concurrent resolutions are not presented to the governor.

(5) Simple Resolutions

A simple resolution, which needs to be adopted by only one house to be effective, does not have the effect of law and is used to express the sentiment of that house. A simple resolution may also be used to deal with

the internal affairs of the house in which it is introduced. Simple resolutions are not presented to the governor.

Chapter 2. Drafting Rules

A. INTRODUCTION

The essentials of good bill drafting are accuracy, brevity, clarity, and simplicity. The purpose and effect of a legislative measure should be evident from its language. Choose words that are plain and commonly understood (Article 4, Section 20 of the Constitution of the State of Indiana).

B. STATUTORY AND CONSTITUTIONAL CONSIDERATIONS:

When drafting legislation, a drafter should consider constitutional (both federal and state) restrictions on legislative measures. In addition, the drafter should be aware of statutory rules for drafting and construction of statutes.

The following is a list of commonly referred to provisions:

INDIANA CONSTITUTIONAL PROVISIONS:

ARTICLE 1	BILL OF RIGHTS
Art. 1, Sec. 24	Prohibition against ex post facto laws and laws impairing the obligation of contracts
Art. 1, Sec. 25	Taking effect of laws may not be contingent on any other authority, other than that set out in the Constitution
ARTICLE 2	SUFFRAGE AND ELECTION
Art. 2, Sec. 9	Prohibition against dual office holding
ARTICLE 3	SEPARATION OF POWERS
Art. 3, Sec. 1	Separation of powers
ARTICLE 4	LEGISLATIVE
Art. 4, Sec. 1	Enacting clause
Art. 4, Sec. 17	Revenue raising statutes must originate in House Bills
Art. 4, Sec. 19	One subject matter requirement
Art. 4, Sec. 20	Laws to be plainly worded
Art. 4, Sec. 22	Special legislation prohibited
Art. 4, Sec. 23	Laws to be general and of uniform operation throughout state
Art. 4, Sec. 24	Special relief legislation
Art. 4, Sec. 28	No act to take effect until published and circulated, except in emergency; emergency clause required
Art. 4, Sec. 30	Eligibility of Legislators for other offices
ARTICLE 5	EXECUTIVE
Art. 5, Sec.14	Passage of bills; action by Governor; veto power; General Assembly required to reconsider and vote on vetoed bills
ARTICLE 8	EDUCATION
Art. 8, Sec. 2	Fines assessed for breaches of state penal laws to be deposited in common school fund
Art. 8, Sec. 3	Principal of common school fund may not be diminished

Art. 8, Sec. 7	State trust funds may not be used for purposes other than that for which established.
ARTICLE 10	FINANCE
Art. 10, Sec. 1	Uniform and equal rate of property assessment and taxation
Art. 10, Sec. 5	Incurring state debt prohibited, except in certain situations
Art. 10, Sec. 8	Authority to levy income tax
ARTICLE 11	CORPORATIONS
Art. 11, Sec. 12	Loaning credit of state prohibited
ARTICLE 13	INDEBTEDNESS
Art. 13, Sec. 1	Debt Limitation
ARTICLE 15	MISCELLANEOUS
Art. 15, Sec. 2	Maximum term of office four years for office created by General Assembly

INDIANA CODE PROVISIONS:

IC 1	GENERAL PROVISIONS
IC 1-1-1	Implementary Provisions for the Indiana Code
IC 1-1-1-5(f)	Headings of titles, articles, and chapters not part of law
IC 1-1-1-8	General severability provision
IC 1-1-2	Laws Governing the State
IC 1-1-3	Proclamation Date; Effective Dates of Session Laws
IC 1-1-3-3	Effective dates generally
IC 1-1-3.1	Effectiveness of Acts Passed Over the Governor's Veto
IC 1-1-3.5	Political Subdivisions Classified by Population; Effective Date of Decennial Census (See: discussion concerning the use of Population Parameters , Page 36).
IC 1-1-4	Construction of Statutes
IC 1-1-4-1	Statutes to be given their plain meaning. Singular includes the plural. Masculine gender includes females.
IC 1-1-4-5	Definitions that apply to the construction of all Indiana statutes
IC 1-1-5	Effect of Repeal; Reservation of Legislative Authority
IC 1-1-7	Interpretation of Registered Mail as Certified Mail
IC 4	STATE OFFICES AND ADMINISTRATION
IC 4-1-1	Fiscal Year
IC 4-1-8	State Requests for Social Security Numbers

IC 4-13-2	Financial Reorganization Act of 1947
IC 4-13-2-19	Reversion of funds at end of state fiscal year
IC 34-28-5-4	Infractions defined
IC 35-50	Criminal Sentencing Structure
IC 36-1	Home Rule for Local Government Units

C. RULES

(1) Sentence Structure

Use short, simple sentences. Avoid excessive use of dependent clauses, parallel clauses, compound sentences, and other complex sentence structures.

(2) Subject of Sentence

Unless it is clear from the context, use as the subject of each sentence the person or entity to whom a power, right, or privilege is granted or upon whom a duty, obligation, or prohibition is imposed.

(3) Tense

Use the present tense. However, when it is necessary to express a time relationship (such as when there is a condition precedent to the operation of the law), state the facts that are concurrent with the operation of the law as present facts and the facts precedent to its operation as past facts.

Example: If a person has finished the training, the person may . . .

When the future tense is appropriate, use "will".

Example: If the director determines that the computer system will cause problems, the director shall . . .

(4) Mood

Use the indicative mood.

Don't say:

The report shall include . . .

A person shall be entitled . . .

Say:

The report must include . . .

A person is entitled . . .

(5) Voice

Use the active voice whenever possible.

In rare instances the passive voice may be used, such as when the subject of the sentence is the focus of some action to be implicitly taken by another person who is not mentioned in the sentence.

Example: A person who commits a Class D felony shall be imprisoned.

(6) Number: Singular vs. Plural

Use the singular instead of the plural, since singular words apply to several persons or things as well as to one person or thing.

(7) Gender

To the extent possible, avoid words importing gender.

(8) Consistency

Be consistent in the use of language throughout the legislative measure. Do not use the same word or phrase to convey different meanings. Do not use different language to convey the same meaning.

Be consistent in the arrangement of comparable provisions. Arrange sections containing similar material in the same way.

(9) Brevity

Omit unnecessary words.

If a word has the same meaning as a phrase, use the word.

Use the shortest sentence that conveys the intended meaning.

(10) Commanding, Authorizing, Forbidding, and Negating

To create a right, say "is entitled to".

To create discretionary authority, say "may".

To create a duty, say "shall".

To create a condition precedent, say "must".

To negate a right, say "is not entitled to".

To negate discretionary authority, say "may not".

To negate a duty or a mere condition precedent, say "is not required to".

To create a duty not to act, say "shall not".

[From: Dickerson, F.R., Legal Drafting, West Publishing Company (1981), p.182]

Avoid false imperatives. Avoid using hortatory qualifiers such as "will", "should", and "ought" in the text of a legislative measure.

(11) And; Or; And/Or

"And" usually stands for the conjunctive, connective, or additive; "or" for the disjunctive or alternative. An ambiguity occurs where it is not clear whether the inclusive "or" (A or B, or both) or the exclusive "or" (A or B, but not both) is intended. It is also not always clear whether the several "and" (A and B, jointly or severally) or the joint "and" (A and B, jointly but not severally) is intended. To avoid this ambiguity, say the following as appropriate:

- (a) "A or B" where the exclusive is intended.
- (b) "A or B, or both" where the inclusive is intended or where jointly or severally is intended.
- (c) "A and B" where the conjunctive, connective, or additive is intended.

Never use the term "and/or".

(12) Such; Said

Use the articles "a", "an", and "the" instead of the words "such" or "said". It is appropriate to use "such" to express an example.

Example: The commission may take steps to provide compliance, such as ordering the applicant to submit a verified statement.

Also, do not use "any", "each", "every", "all", or "some" if "a", "an", or "the" can be used with the same result.

(13) Which; That

Use "which" and a comma to introduce a nonrestrictive clause. A nonrestrictive clause is a clause that is not needed to clarify the meaning of the word that it modifies.

Example: The application, which need not be verified, must be signed by the applicant.

Use "that" to introduce a restrictive clause modifying the nearest antecedent. A restrictive clause is a clause that is needed to make clear the meaning of the word that it modifies.

Example: An application to renew a license that has been revoked must be signed by the applicant.

(14) Limitations, Exceptions, and Conditions

Limitations or exceptions to the coverage of the legislative measure or conditions placed on its application should be described in the first part of the legislative measure--i.e. at the beginning of the title, article, chapter, section, or noncode provision [see **Bills**, Page 22]. If they are numerous, notice of their existence should be given in the first part of the legislative measure, and they should be stated separately later in the legislative measure.

If a provision is limited in its application or is subject to an exception or condition, it generally promotes clarity to begin the provision with a statement of the limitation, exception, or condition or with a notice of its existence. Avoid using "notwithstanding" to express a limitation of a general provision of the same legislative measure.

Say:

Sec. 1. (a) Except as provided in subsection (b), . . .

Don't say:

(b) Notwithstanding subsection (a), . . .

"If", "when", and "whenever" are expressions of limitation or condition. If the condition is limited by a single occurrence that may never occur, use "if" to introduce the condition.

Example: If the mayor resigns from office, the deputy mayor assumes the duties of the office.

If the condition will occur more than once, introduce the condition with "whenever".

Example: Whenever the operator answers a call, the operator shall . . .

If the condition is certain to occur, use "when".

Example: When the statute takes effect, the governor shall . . .

Do not use "provided that", "provided however that", or similar proviso language. Use "but" instead of "except that".

(15) Designation of Sections, Subsections, Subdivisions, Clauses, and Items

Use short sections. Use a separate section for each separate topic.

For paragraph divisions of a section (called subsections), use "(a)", "(b)", "(c)", etc. All paragraphs, whether in new or existing provisions, must be designated. When drafting a new section or when adding new subsections to an existing section, do not create more than eight subsections, because if there are that many ideas, they are probably best expressed in separate sections and because the ninth subsection "(i)" is easily confused with the division known as "item (i)".

Do not use divisions below items, because a separate sentence should probably be used in that case.

1: When designating divisions in a section that has subsections, use the following style (in the left hand margin is a description of the different levels of tabulation shown):

Subsection)))))))))

Sec. 1. (a)

Subdivision)))))))))

(1)

(2)

Clause)))))))))

(A); and (or)

(B)

Item)))))))))

(i); and (or)

(ii) ; and (or)

Subdivision))))))))))))) ,

(3)

Subsection))))))))))))) ,

(b)

2: When designating divisions in a section that has no subsections, use the following style:

Sec. 1.:

Subdivision))))))))) ,

(1);

(2); and (or)

(3):

Clause))))))))) ,

(A); and (or)

(B)

(16) Redesignation

Within a section, renumber or reletter an already designated provision of that section only if:

(a) there is little probability that an Indiana Code designation is relied on by users of the Code; and

(b) a computer search has been conducted using FOLIO (software that is capable of searching statutes for certain words, phrases, and numerals) to locate sections containing internal references to the Code provisions to be redesignated.

(17) Tabulation

Introduction

The purpose of tabulation is to break down the elements of a sentence into readily identifiable components as an aid to understanding. Break a sentence into its parts and present them in tabular form only if this makes the meaning substantially clearer. There are two basic types of tabulation, listing and sentence. It is important to remember, however, that no matter which style is used, the introductory language preceding the tabulated material must apply to all of the elements because those elements are a part of the whole thought.

Often it is possible to use either style of tabulation. Use the style that works best within the context.

Avoid beginning a new sentence after a tabulation. If the sentence is not a part of the tabulated series, it is better practice to draft it as a separate subsection or section.

Listing Style

The first style of tabulation is known as a listing. As the name implies, each element is listed after the introductory clause and begins with a capital letter and ends with a period. When a listing is used, the introductory language must include the words "as follows" or "the following".

Example: Sec. 1. The application must include the following information:

- (1) The applicant's name.**
- (2) The name of the sponsoring agency.**
- (3) The name of the city in which the event is to take place.**

Each listed element can have subelements, but each element must end with a period even if it has subelements.

Sentence Style

The second style of tabulation is known as sentence style. This style is best envisioned by thinking of a sentence with a series of elements where each element is given a line of its own, where each element has some type of designation before it, and where the commas are replaced with semicolons. Use the following sentence for an example: "To be entitled to vote, a person must be a resident of Indiana, at least eighteen (18) years of age, and registered with the county election board.". When this sentence is tabulated as follows, it is easier for the reader to quickly identify the three qualifying elements:

Sec. 1. To be entitled to vote, a person must be:

- (1) a resident of Indiana;**
- (2) at least eighteen (18) years of age; and**
- (3) registered with the county election board.**

Note that the conjunction always follows the next to last element in the tabulation, and that the only permissible conjunctions are "and" or "or". The conjunction, however, applies to each element in the tabulation and not just to the last two elements.

This style of tabulation can be expanded with each of the elements having subelements.

Listings Without Numbering or Lettering

The numbering or lettering of a listing of elements when using listing style is not required when:

- (a) the elements may be listed in order (such as alphabetical order, numerical order, or Indiana Code cite order);
- (b) it is likely that the listing will be frequently modified; and
- (c) there is no need to cite to a particular element within the listing.

Example: Sec. 2. The following drugs are controlled substances:

Acetylmethadol
Allylprodine
Alphacetylmethadol.

Example: Sec. 1. The following agencies are not abolished:

Department of administration (IC 4-13-1-2)

**Legislative council (IC 2-5-1.1-1)
Regional planning commissions (IC 36-7-7).**

Formulas

A variation of the listing style of tabulation is the style of tabulation used when writing formulas. The style is the same as the listing style except that the word "STEP" followed by the appropriate numeral written out in capital letters is substituted as the first division. This style is most frequently used for tax, school finance, and mathematical computations.

Example: **Sec. 2. The amount of credit a taxpayer is entitled to under this chapter is determined in STEP FIVE of the following formula:**
STEP ONE: Add:
 (A) the costs paid by the taxpayer for the qualified energy system; and
 (B) the cost paid for its installation and materials used in its installation.
STEP TWO: Subtract five hundred dollars (\$500) from the sum determined under STEP ONE.
STEP THREE: Multiply the remainder determined under STEP TWO by two (2).
STEP FOUR: Divide the product determined under STEP THREE by three (3).
STEP FIVE: Determine the lesser of the following:
 (A) The quotient determined under STEP FOUR.
 (B) One thousand dollars (\$1,000).

(18) Capitalization

As a general rule, capitalization should be used sparingly.

Do capitalize the following:

- (a) The first word in a sentence and the first word in tabulated items in the listing style.
- (b) Geographic names.

Examples: Ohio River; Marion County; Hoosier National Forest

- (c) Months and days of the week.
- (d) Names of streets, roads, parks, and buildings.

Examples: the White House; U.S. Route 50; Garfield Park

- (e) Names of nationalities and languages.

Examples: Spanish-speaking people; English language

- (f) Political parties and religious denominations.

Examples: the Democratic party; the Republican party; the Methodist church (but, First Methodist Church)

- (g) Official titles of organizations and institutions.

Examples: Associated Press; Indiana University; Indiana State Medical Association

(h) Federal and international entities. Always use the correct name of an entity, and do not use acronyms as abbreviations.

Examples: United States Department of the Interior; United States House of Representatives; United States Senate; Federal Bureau of Investigation; World Bank; United Nations

(i) Titles of specific acts, federal laws, and other official documents.

Examples: Equal Rights Amendment; Internal Revenue Code; Social Security Act; the Constitution of the United States; the Constitution of the State of Indiana; Rules of Trial Procedure

(j) References to the "Indiana Code".

(k) Titles of honor and respect, when preceding the name.

Examples: Governor Frank O'Bannon; State Senator Robert D. Garton; State Representative John Gregg; Senator Richard Lugar (but, senator of Indiana); Queen Elizabeth (but, queen of England)

(l) Holidays, religious days, and historic events.

Examples: Fourth of July; Thanksgiving Day; Passover

(m) Titles of books, magazines, newspapers, and periodicals.

Examples: the Indianapolis Star; the Indiana Register

(n) The first word after each "Whereas" in a resolution.

Example: Whereas, The protection and welfare of the children of Indiana is of primary concern . . .

(o) "Class" when referring to a criminal penalty or a type of infraction, such as a "Class B felony".

(p) The second word of hyphenated titles, such as "Community-Board".

(q) The first letter of all significant words in an Indiana Code chapter heading.

Example: Chapter 2. Prohibitions in the Sale and Use of Certain Detergents

(r) Every letter in an Indiana Code title or article heading.

Example: ARTICLE 4. AIR AND WATER POLLUTION CONTROL

Do not capitalize the following:

(a) Words such as "city", "county", "state", etc., when alone or with the word "of" preceding a specific name.

Examples: city of Indianapolis; second class city; the county (but, Lake County)

(b) Directional parts of states and counties (except in surveyors' reports and other such documents).

Examples: northern Indiana; central Tippecanoe County; midwestern states

(c) General designations of buildings.

Examples: library in Fort Wayne (but, the Fort Wayne Library); the county courthouse; the Indianapolis post offices

(d) The words "government" or "federal" (except when "federal" is a part of the name of the agency or statute). However, use "United States" instead of "federal" when referring to a specific entity that does not have "federal" in the name. Always use the correct name of an agency.

Examples: United States government; federal agencies (but, Federal Bureau of Investigation); United States Department of Health and Human Services; United States Social Security Administration

(e) Names of legislative, judiciary, and administrative bodies and government departments, unless the name refers to a federal body, department, etc.

Examples: Indiana general assembly; Indiana senate; department of state revenue; Congress of the United States; Supreme Court of the United States

(f) Official titles of state, county, or municipal officers, agencies, commissions, committees, or funds.

Examples: clerk of the circuit court; board of county commissioners; public employees' retirement fund; commission on the aging and aged; legislative services agency; state general fund

(g) Substitutes for official titles when used without a proper name.

Examples: the governor; the commissioner; the speaker of the house

(h) References to laws on a particular subject.

Examples: motor vehicle laws; federal election laws; federal tax laws (but, Internal Revenue Code)

(i) Names of seasons of the year.

Examples: spring; summer session

(19) Commas

If a sentence consists of two independent clauses, each with subject and predicate, use a comma before the conjunction.

Example: The commission shall submit a report, and the governor shall review the report.

If a sentence has a compound predicate, a comma is unnecessary unless required for clarity.

Example: **The treasurer shall file the report before June 30 and shall submit copies of the report to each member of the commission.**

A comma is used to set off a nonrestrictive adjective clause.

Example: **The director, who may not have other employment, is entitled to receive a salary.**

A comma is not used to set off a restrictive clause.

Example: **The registrar shall assign a student identification number to each student who enters Purdue University.**

Enclose a parenthetical phrase or clause with two commas.

Example: **The treasurer shall, before June 30 of each fiscal year, submit copies of the report to each member of the commission.**

Words, phrases, or clauses in a series are separated by commas, including a comma before the conjunction connecting the last two members of a series.

Example: **The report shall be filed with the auditor of state, the treasurer of state, and the state board of tax commissioners. The report must contain all debits, credits, and profits of the corporation.**

Adverbial phrases, introductory participial phrases, and introductory, long subordinate clauses should be set off by commas.

Examples: **Because of the need for a more effective welfare program, the chairman ordered an extensive study of the present program. Until further notice is given, the present rules remain in effect.**

(20) Parentheses

Avoid parentheses except when they are more reliable than commas in setting off a phrase where there is possible uncertainty as to how the ideas that follow the phrase are linked to the ideas that precede it.

Example: When it is necessary to order individuals to active duty (other than for training) without their consent, . . . [See Dickerson, F. Reed, Legislative Drafting, West Publishing Company (1981), p.71]

Parentheses may also be used if necessary to make clear a reference to another statutory provision by indicating the nature of the referenced provision.

Example: IC 35-42-3-2 (kidnapping)

Parentheses should be used to set off an internal reference to the citation where a term is defined.

Example: **"System" means:**
 (1) a computer (as defined in IC 36-8-15-4);

- (2) a communications system (as defined in IC 36-8-15-3(1)); or
- (3) mobile or remote equipment that is coordinated by or linked with a computer or communications system.

(21) Brackets

Do not use brackets as punctuation.

(22) Apostrophes

The possessive case of a singular or plural noun not ending in "s" is formed by adding an apostrophe and "s".

Examples: attorney's fees; children's hospital; man's; women's; worker's compensation

Although the possessive case of a singular noun ending in "s" or with an "s" sound is formed by adding an apostrophe and "s", this situation should be avoided by redrafting the language.

Example: tires of the bus (NOT bus's tires)

The possessive case of a plural noun ending in "s" or with an "s" sound is formed by adding an apostrophe.

Example: public employees' retirement fund

An apostrophe should not be used after the names of countries and other organized bodies ending in "s" or after words more descriptive than possessive.

Example: department of veterans affairs; prosecuting attorneys council

In compound nouns, the "'s" or "s'" is added to the element nearest the object possessed.

Examples: attorney general's appointments; secretary of state's agenda; soldiers and sailors' home

(23) Semicolons

Generally, only use semicolons in the sentence style of tabulation.

Example: A school corporation may grant a teacher, on written request, a sabbatical for improvement of professional skills through:
(1) advanced study;
(2) work experience;
(3) teacher exchange programs; or
(4) approved educational travel.

(24) Colons

Use a colon to introduce a series.

Example: THE FOLLOWING ARE REPEALED: IC 17; IC 18; IC 19.

Use a colon to introduce a long quotation.

(25) Quotation Marks

Quotation marks should be used only to enclose defined words or phrases. Commas, periods, and question marks should be placed outside the quotation marks unless the punctuation is included as part of the quoted material. Commas are also placed outside quotation marks when in the middle of a sentence.

Examples: As used in this section, "ad valorem tax" means . . .
 "Revenue bonds", as used in this subsection, refers to bonds issued under
 IC 36-9-31-10.

(26) Hyphens

Avoid hyphens, because many words that once were hyphenated are now written as one word or as two words without a hyphen. It is easier to perform computer searches if hyphens are not used.

Examples: statewide attorney general reelect lieutenant governor bipartisan vice president
 cooperate

(27) Expression of Numbers

Introduction

Integers, dollar amounts, percentages, and fractions (except dates, times, and numbers within the text of a bill digest or a resolution) should be expressed in words followed by figures in parentheses. Style policy is less restrictive for the digest and resolutions, and journalistic style normally should be followed.

Style for Numbers Expressed in Words

Examples: twenty-four (24)
 one hundred ten (110)
 eight hundred ninety-eight (898)
 one thousand six hundred fifty (1,650)
 eighty-four thousand (84,000)

Numbers may be expressed in figures if length would prohibit expressing them in both words and figures, especially in tables.

Examples: County government share \$15
 State government share 34

Fractions

Percentages are preferred to fractions whenever practicable.

Don't say:	Say:
one-half (1/2)	fifty percent (50%)
three-fourths (3/4)	seventy-five percent (75%)

Compound fractions should be expressed as follows:

Examples:

three and one-half (3 1/2)
four and three-eighths (4 3/8)

Percentages

Decimals are preferred whenever practicable.

Examples:

one-tenth of one percent (0.1%)
sixty-two and one-half percent (62.5%)

Ordinals

Express ordinals in words only.

Examples:

first (NOT 1st); twenty-second (NOT 22nd)

Use of "One"

When "one" is used as a pronoun, it should not be followed by a numeral in parentheses.

Example:

He was the only one to attend the meeting.

However, when "one" is used as a number, it should be followed by a numeral in parentheses.

Example:

The precinct shall nominate one (1) delegate.

Dates

When a date includes month, day, and year, the year is set off by commas, but when the date includes only the month and year, no comma is used.

Examples:

June 30	October 30, 1978
June 1984	April, May, and June 1985

Time

Generally, time should be expressed in figures. Avoid using terms such as "local time" and "prevailing local time", and avoid referring to time zones, since IC 1-1-8.1 and federal law define official time. It is not necessary to use "midnight" as the expiration time for a term or license since these will automatically expire at midnight unless some other time is indicated.

Examples:

6 a.m.; 4:30 p.m.; midnight (NOT 12:00 midnight); noon (NOT 12:00 noon)

Temperatures

Examples:

one hundred sixty (160) degrees Fahrenheit
ninety (90) degrees Celsius

Money

Monetary amounts should be expressed as written words followed by a dollar sign and figures in parentheses. Dollar amounts that are whole do not need decimal points and zeroes.

Examples: one dollar (\$1)
ninety-seven dollars (\$97)
two hundred dollars (\$200)
three thousand five hundred dollars (\$3,500)

When using dollars and cents, use the word "and" and decimal points to separate dollars and cents.

Examples: eighty-five cents (\$0.85)
five hundred twenty-five dollars and fifty cents (\$525.50)
six hundred seventy-five thousand nine hundred eighty-two dollars and eleven cents (\$675,982.11)

Formulas

Use the STEP method rather than numerators and denominators [see **Formulas**, Page 14].

Age

Use "at least", "less than", and "years of age" when referring to age.

Example: An applicant must be at least fifteen (15) years of age but less than eighteen (18) years of age.

Example: A person who is at least sixty-five (65) years of age is entitled to a pension.

Fiscal Year

When referring to the state fiscal year, use "beginning July 1" and "ending June 30" (See IC 4-1-1-1).

Example: The appropriation covers the state fiscal year beginning July 1, 2000, and ending June 30, 2001.

(28) Indiana; State

Do not use "the state of Indiana".

Use "Indiana" when referring to the geographic entity.

Example: resident of Indiana

Use "state" when referring to the political entity.

Example: departments of state government; real property owned by the state

Chapter 3. Bills

A. PRINCIPAL COMPONENTS OF BILL

(1) Introduction

The principal components of a bill are the following:

Digest

Title

Enacting Clause

Body

The body of a bill may contain amendments and additions to the Indiana Code, repealers of Indiana Code provisions and noncode provisions, and noncode provisions.

(2) Order of Provisions in New Chapter or Article

The following is suggested as the order of provisions in a bill that adds a new chapter or article:

Code Provisions

- (a) Applicability (including scope, exceptions, and exclusions)
- (b) Definitions
- (c) Creation of entity
- (d) Administrative and procedural provisions
- (e) Substance (state requirements in order of time, importance, or other logical sequence)
- (f) Prohibitions and penalties

Noncode Provisions

- (g) Repeals
- (h) Transitional provisions
- (i) Legalizing provisions
- (j) Savings provisions
- (k) Severability provisions
- (l) Appropriations

B. BILL DIGEST

(1) Introduction

The rules of each house require that each bill contain a brief digest stating the nature of the proposed legislation. The purpose of the digest is to tell the casual reader in laymen's terms what the bill does, avoiding legal jargon and technical terminology. Follow these general rules when preparing a digest:

(a) The first part of a digest should list the Indiana Code citations affected. If the bill also amends noncode provisions, list those provisions after the Code citations. If the bill only adds noncode provisions, write "None (noncode)".

(b) The second part of a digest is the synopsis. The synopsis is a brief summary of the contents of the bill. The synopsis should be as short as possible. The digest is intended to be a general summary of the bill and not a point by point outline.

(c) The first sentence in the synopsis should summarize the entire bill in a topic sentence of five to eight words. The other sentences in the synopsis for a bill amending the Code should begin with a verb followed by a brief explanation of the proposed change. If, however, so many changes are being made that a complete listing would be impractical, the following language may be used:

Example: "Makes numerous other changes in the law of ...".

(d) The digest of each bill containing an appropriation should state the appropriated amount in the synopsis.

(e) The digest of each bill containing a repealer should provide a description of the repealed provision in the synopsis.

(f) At the end of the synopsis, there may be inserted a statement that the bill was prepared at the request of a particular committee or commission, if:

(A) the bill was prepared under the direction of an interim study committee established by the Legislative Council or by a commission established by the general assembly with legislative members; and

(B) the committee or commission agrees to insert such a statement.

The statement must be in the following form:

(The introduced version of this bill was prepared by the _____.)

This statement may not be inserted in the bill synopsis if the author makes any unauthorized substantive changes in the bill for introduction after committee or commission action.

If a bill contains text that corrects a conflict between two bills enacted during the previous session of the general assembly, the digest should contain the following statement at the end of the synopsis:

Reconciles conflicts between statutes enacted by the [year] general assembly (shown in italicized type).

(g) The third part of each digest is a statement of the bill's effective date. Each effective date in the bill must be mentioned, even the uniform effective date (IC 1-1-3-3) of July 1.

(2) Form of a Digest

Example:

DIGEST

Citations Affected: IC 1-1-1; IC 5-10-6-2.

Synopsis: State holidays. Requires the governor to establish five new holidays for state employees. Repeals provision prohibiting state employees from being paid for unused sick leave.

Effective: July 1, 20___; January 1, 20___.

Example:

DIGEST

Citations Affected: None (noncode).

Synopsis: Indiana statehood commission. Establishes the commission on the bicentennial of Indiana statehood.

Effective: July 1, 20___.

Example:

DIGEST

Citations Affected: P.L.365-1995, SECTION 1.

Synopsis: Extends the agent orange birth defects study. Appropriates \$500,000 to the agent orange fund from the state general fund.

Effective: December 1, 20___.

C. BILL TITLE

(1) Introduction

The rules of each house require each bill to contain a title that expresses the subject matter of the bill in concise terms in order to acquaint the reader with the general subject matter under consideration. The title should not state what the bill does but should provide a short, general statement of the subject matter of the bill. Usually, the title should be worded the same as the title of the Indiana Code being amended. The following form should be followed for bills that amend the Indiana Code by amending a provision or adding a provision:

Example: A BILL FOR AN ACT to amend the Indiana Code concerning natural and cultural resources.

(2) Emergency

If an emergency is declared, it is not necessary to state that fact in the title. Article 4, Section 28 of the Constitution of the State of Indiana provides that the emergency must be declared either in the preamble

or in the body of the law to be effective.

(3) Appropriations

If the bill makes an appropriation, include that fact in the title. Say:

A BILL FOR AN ACT to . . . and to make an appropriation.

(4) Repeal of Code Provisions

A repealer is not mentioned in the title, except when the sole purpose of a bill is to repeal existing legislation (i.e., the bill does not contain any new Indiana Code provisions and does not contain amendatory provisions). In that case the title of the bill is prepared by reciting the fact of the repeal and setting forth what is repealed.

Examples: A BILL FOR AN ACT to repeal a provision of the Indiana Code concerning . . .

or

A BILL FOR AN ACT to repeal certain provisions of the Indiana Code concerning . . .

(5) Noncode Bill

The title of a noncode bill, which is a bill that contains only noncode provisions, should appear as follows:

A BILL FOR AN ACT concerning . . .

If the bill amends only an existing noncode act, use one of the following [see **Session Law Citations**, Page 2]:

A BILL FOR AN ACT to amend Acts ___, c. ___, s. ___, concerning . . .

A BILL FOR AN ACT to amend Acts ___, P.L. ___, SECTION ___,
concerning . . .

A BILL FOR AN ACT to amend P.L. ___-19 ___, SECTION ___, concerning . . .

D. BILL PREAMBLE [see also **Purpose Provisions**, Page 32.]

A preamble is used only in the rare instance when it is desirable to express the reasons for legislation, the purpose of legislation, or findings related to legislation on the face of the bill itself. This material takes the form of "Whereas" clauses that are placed at the beginning of the bill following the title and before the enacting clause. Since a preamble appears before the enacting clause, the preamble is not printed as a part of the law in the Indiana Code but does appear in the session laws. Thus, a preamble is similar to a concurrent resolution; that is, it is a statement that does not have the effect of law but reflects the sentiment of the general assembly at the time that it is passed.

Example: *Whereas,;*

Whereas,;

Whereas,; and

Whereas, Therefore,

E. BILL ENACTING CLAUSE

Each bill must contain the following standard enacting clause required by Article 4, Section 1 of the Constitution of the State of Indiana:

Be it enacted by the General Assembly of the State of Indiana:

F. INTRODUCTORY CLAUSE (LEAD-IN LINE)

(1) Introduction

The body of a bill is divided into segments known as "SECTIONS". If a SECTION of a bill affects the Indiana Code, the SECTION must begin with an introductory clause (also referred to as a lead-in line), which identifies by Indiana Code citation the part of the law being altered. This is followed by the content of the proposed law. Only one section of an existing law may be amended in a single SECTION of an amendatory bill. However, if a new title, article, or chapter is being added, the entire title, article, or chapter should be put into one SECTION. The following general rules apply to all introductory clauses:

- (a) The entire lead-in line is in capital letters.
- (b) An introductory clause to a section of the Indiana Code must include both the Indiana Code citation for that section and the designation of the last act, published after the last official edition of the Code, that amended that particular section, if any.
- (c) The introductory clause must indicate when the affected SECTION is effective [see **EFFECTIVE DATES**, Pages 47-49].

(2) Amendments to the Code

To amend a section that has not been amended or added since the publication of the 1998 Edition of the Indiana Code, say:

SECTION __. IC 1-2-3-4 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2000]:

To amend a section that has been added or amended in the 1999 Regular Session or since, show only the addition (or the latest amendment to the section) as follows:

SECTION __. IC 1-2-3-4, AS ADDED (AMENDED) BY P.L. __-19__, SECTION __, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2000]:

[See **ALTERING PROVISIONS ADDED OR AMENDED EARLIER IN THE SAME SESSION**, Page 69, for a discussion of introductory clauses for a section previously added or amended during a legislative session.]

(3) Additions to the Code

For each new section, new chapter, new article, or new title added to the Indiana Code, an introductory clause is needed as follows:

To add a **new section** to a chapter, say:

SECTION __. IC 1-2-3-4 IS ADDED TO THE INDIANA CODE AS A **NEW SECTION** TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2000]:

To add a **new chapter** to an article, say:

SECTION __. IC 5-6-7 IS ADDED TO THE INDIANA CODE AS A **NEW CHAPTER** TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2000]:

To add a **new article** to a title, say:

SECTION __. IC 8-9 IS ADDED TO THE INDIANA CODE AS A **NEW ARTICLE** TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2000]:

To add a **new title** to the Code, say:

SECTION __. IC 37 IS ADDED TO THE INDIANA CODE AS A **NEW TITLE** TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2000]:

(4) Repealers

A repealer does not have a separate introductory clause as does legislation amending existing law or adding new provisions. The repealer itself indicates the law to be repealed and there is no need to set forth the text. [See **REPEALERS**, Pages 41-42.]

(5) Noncode Provisions

Additions

If a noncode provision is being added, an introductory clause is not required because the provision does not amend the Indiana Code.

Amendments

Before amending a noncode provision, the drafter should check the Session Law Disposition Table in Volume 13 of the 1998 Edition of the Indiana Code and the Session Law Disposition Table in the latest Supplement to the Indiana Code to make sure that the noncode provision has not been amended.

If a noncode provision is being amended, one of the following introductory clauses is required to properly identify the noncode provision. The P.L. referred to in the introductory clause should be a reference to the latest P.L. amending the noncode provision.

(a) For noncode provisions in acts enacted beginning with the 1982 Special Session:

SECTION __. P.L.__-19__, SECTION __, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2000]:

(b) For noncode provisions in acts enacted beginning with the 1971 Session and through the 1982 Regular Session:

SECTION __. ACTS __, P.L.__, SECTION __, IS AMENDED TO READ AS FOLLOWS
[EFFECTIVE JULY 1, 2000]:

(c) For noncode provisions in acts enacted before 1971:

SECTION __. ACTS __, C.__, S.__, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
JULY 1, 2000]:

G. CODE PROVISIONS GENERALLY

(1) Numbering System

Sections

The first section to be added to a chapter is numbered "1" and the remaining sections are numbered consecutively. The only exceptions to this numbering scheme are found in the following:

- (a) The Uniform Commercial Code (IC 26-1).
- (b) The Uniform Consumer Credit Code (IC 24-4.5).
- (c) The local planning and zoning law (IC 36-7-4).
- (d) The fuel tax laws (IC 6-6).

A decimal citation should be used only if it is clearly the best placement for understanding.

Chapters and Articles

As with sections, articles and chapters are to be numbered consecutively, starting with "1". Since the introduction of the Indiana Code, decimal numbers for various articles and chapters have been used; however, a placement that would result in a new chapter or article having a decimal Code citation should be used only if it is clearly the best placement for understanding.

Numbering of Definitions

(See **Definitions**, Pages 33-35.)

Use of Repealed Sections, Chapters, Articles, and Titles

To avoid confusing references after a section, chapter, article, or title has been repealed, do not place new text at that Indiana Code location.

(2) Headings

Titles, Articles, Chapters

Title, article, and chapter headings are inserted by legislation. The heading should be as broad as possible without being misleading. Once a title, article, or chapter heading has been adopted, however, it cannot be changed by legislation. When it appears that a title, article, or chapter heading change is needed, contact the Office of Code Revision, because IC 1-1-1-5(f) provides that title, article, and chapter headings are not a part of the law and may be changed by the lawful compilers to more accurately reflect the text.

Sections

Section headings, which do become a part of the law, are not to be used in bills, even when a new section is being added to a chapter that has sections with existing headings. Furthermore, when an existing section that contains a heading is amended, the heading should be stricken, even in uniform laws.

[Note: The headings in IC 36-7-4, the local planning and zoning law, are not section headings but relate to applicability. They should be stricken only when a change in applicability is desired. See IC 36-7-4-101, IC 36-7-4-102, and IC 36-7-4-103.]

(3) Printing Style

Amending a Section

When an existing section of the Indiana Code is amended, the latest version of text is set forth in regular roman type (roman type). Material to be deleted is stricken through (~~strike~~), and material to be added is set in bold type (**bold type**).

New Title, Article, Chapter, or Section

When a new title, article, chapter, or section is added to the Indiana Code, the entire title, article, chapter, or section is set in bold type.

(4) Internal References

Internal References to Indiana Code Provisions

If one provision makes reference to another Indiana Code provision, the form specified in Chapter 1 [see Pages 2-3] is to be followed, except as follows:

- (a) A reference to the title in which the reference occurs should be expressed as "this title".
- (b) A reference to the article in which the reference occurs should be expressed as "this article".
- (c) A reference to the chapter in which the reference occurs should be expressed as "this chapter".
- (d) A reference to the section in which the reference occurs should be expressed as "this section".
- (e) A reference to the subsection in which the reference occurs should be expressed as "this subsection".
- (f) A reference to another section or sections in the same chapter should be expressed as "section ... of this chapter" or "sections ... through ... of this chapter".
- (g) A reference to a specific subsection in the same section should be expressed, for example, as "subsection (a)" or "subsections (a) through (d)".
- (h) A reference to a subsection in the same chapter but not in the same section should be cited, for example, as "section 5(b) of this chapter".

(i) A reference to multiple subsections should be as follows:

Examples: subsections (a) and (b) [PLURAL]
subsection (a) or (b) [SINGULAR]
subsections (a) through (d) [PLURAL]

However, if different subdivisions are referred to within the same subsection, the drafter should use the SINGULAR because it is the same subsection.

Examples: subsection (a)(1) and (a)(3)
subsection (a)(1) through (a)(3)

Unless the context necessitates reference to a specific subsection, refer to the section as a whole. References to subparts of laws below the subsection level should be avoided.

If a statute refers, by citation, to a group of provisions in a different Code unit, the references should be cited as follows:

For a group of titles, cite as "IC 2 through IC 6".

For a group of articles, cite as "IC 2-3 through IC 2-5".

For a group of chapters, cite as "IC 5-4-7 through IC 5-4-8".

For a group of sections, cite as "IC 5-4-3-2 through IC 5-4-3-9".

Confusing References to Statutes

Existing references to "the preceding section", "the next section", "the following section", "above", "below", "herein", "hereinafter", "therein", or "hereinbefore" must be clarified by replacing the reference with the corresponding Indiana Code citation.

Internal References to Specific Indiana Session Laws

If it is necessary to use an Acts citation in an Indiana Code provision, the form stated in Chapter 1 [see Page 1] should be followed.

If an Acts citation is found in an existing Code provision, the Code citation must be substituted for the Acts citation unless the law being amended indicated that the adopted law was incorporated as it existed at a particular time or unless the reference is no longer desired. This is the case even if the Acts citation is by quotation of its title, such as "an act concerning the proceedings, order, and determinations of State officers and agencies and judicial review thereof". Thus, one of the following actions is required:

(a) Retain the Acts citation. Note, however, that this may require striking an Acts citation by title and inserting the Acts citation in the proper form.

Example: "An act to amend sections 1 and 12 of an act entitled 'An act concerning highways',

approved March 8, 1905" would be replaced by "Acts 1907, c.232".

- (b) Replace the Acts citation with a Code citation to the current law on the matter.
- (c) Delete the citation entirely.

Internal References to Effective Dates

An internal reference to an effective date of an Indiana statute, usually in the form of "the effective date of this act", should be stricken if obsolete. Otherwise, it must be replaced with a specific date as follows:

- (a) If an act has a specific effective date, substitute that date for the reference.
- (b) If an act declares an emergency and provides that it takes effect upon passage, insert the approval date, which is found in the Acts after the chapter or public law number.
- (c) For an act passed beginning in 1852 and through 1978, if the act contains no emergency clause or specific effective date, use the promulgation date for that year's laws. The promulgation dates for the Acts are listed in the prefatory pages of each Indiana Code volume.
- (d) For an act passed beginning in 1852 and through 1978, if there is no declaration of emergency and the specific effective date is before promulgation, insert the promulgation date for that year (Article 4, Section 28 of the Constitution of the State of Indiana).
- (e) For an act passed during or after 1979, see **EFFECTIVE DATES**, Pages 47-49.

If the occasion arises for using an effective date reference in a Code provision, do not use the phrase "upon the effective date of this act". Instead, insert a definite date reference.

Confusing Internal References to Effective Dates

The words "now", "existing", "present", "currently", "already", "heretofore", and "hereafter" are inherently ambiguous in statutes, though they usually relate to the time when the provision took effect. These words should be either replaced by a definite date reference or eliminated.

Internal References to Federal Statutes

When citing to a federal law, use the United States Code reference.

Example: 16 U.S.C. 201

Convert federal Public Law numbers and references to the Statutes at Large to U.S.C. references when found in existing statutes. If there is no U.S.C. citation, use the Public Law designation with the designation from the Statutes at Large.

Example: P.L.85-864 (64 Stat. 514)

Internal References to Federal Regulations

When citing to a federal regulation, use the Code of Federal Regulations reference.

Example: 24 CFR 201

Internal References to Indiana Agency Rules

When citing to an Indiana administrative rule, use the Indiana Administrative Code reference.

Example: 310 IAC 2-18-1

When citing to an Indiana administrative rule not in the Indiana Administrative Code, use the Indiana Register reference.

Example: 5 IR 1000

Internal References Within the UCC, UCCC, and Certain Model and Uniform Acts and Compacts

The form of internal references specified in Chapter 1 [see Page 1] is ordinarily used in the Uniform Commercial Code (IC 26-1), Uniform Consumer Credit Code (IC 24-4.5), state compacts, and certain model and uniform acts. Contact the Office of Code Revision for guidelines on the proper citation format in these statutes.

Other Internal References

Refer to the latest edition of A Uniform System of Citation for other internal reference citations.

H. SPECIFIC TYPES OF CODE PROVISIONS

(1) Short Titles

Short titles are not to be used except for short titles included in uniform laws drafted by the Conference of Commissioners on Uniform State Laws.

(2) Purpose Provisions [see also **BILL PREAMBLE**, Page 25]

A well-drafted act requires no statement of what it seeks to accomplish or the reasons prompting its enactment. Do not include language stating the purpose of an act or reciting the facts upon which an act is predicated unless the included language would be useful in upholding the act against constitutional attack or is necessary to give meaning to a provision for liberal construction.

(3) Applicability Provisions

An applicability provision is used to specify the persons, things, or occurrences to which the statute applies or to limit the time frame to which the statute applies.

Example: This chapter applies to taxable years beginning after December 31, 2000, and ending before January 1, 2003.

Do not use definitions to limit a statute's application when a substantive statement in an applicability provision would be clearer.

An applicability provision should be placed at the beginning of a title, article, section, or subsection, rather than

the end.

(4) Definitions

Introduction

Use definitions only:

- (a) when a word is used in the sense of one of several dictionary meanings or is used in a technical manner;
- (b) to avoid repetition of a lengthy phrase; or
- (c) to limit or extend the meaning of a word for the provisions of the statute.

(a) DO NOT:

Write substantive or applicability provisions into definitions.

Example: "Applicant" means a person who:

- (1) applies for a license from the department;**
- (2) has at least twenty (20) hours training at an accredited school;**
- (3) has at least twenty (20) hours of clinical experience; and**
- (4) pays the prescribed fee.**

Explanation: The definition should have stopped with subdivision (1)--i.e. "Applicant" means a person who applies for a license from the department. Subdivisions (2), (3), and (4) are substantive requirements that should be addressed separately as conditions of licensure.

Example: "Medicaid waiver" refers to a waiver from compliance with the requirements of the federal Medicaid law, which the state department must request from the federal Department of Health and Human Services, in writing, before December 31, 2000.

Explanation: The definition should have stopped after "law"--i.e. "Medicaid waiver" refers to a waiver from compliance with the requirements of the federal Medicaid law. The requirements that the waiver be requested: (1) in writing, and (2) before December 31, 2000, should be put in separate, substantive provisions.

(b) DO NOT:

Use a word in a sense foreign to a dictionary meaning.

Example: "Wheat" means wheat, rye, and barley.

(c) DO NOT:

Develop and use an artificial concept.

Example: See Acts 1967, Ch. 283, SEC.2, in which the concept of "local time" is developed.

(d) DO NOT:

Use a definition if the defined term is used once or very few times.

Form Generally

Use quotation marks and the following style when defining a term:

- (a) Use **"means"** to indicate that there is an exact equivalency between the defined term and the description.

Example: **Sec. 1. "Executive" means the mayor of a city.**

- (b) Use **"includes"** to indicate items that are marginally included within a nonexhaustive definition.

Example: **Sec. 2. "License" includes permit.**

Avoid the phrase "includes but is not limited to".

- (c) Use **"refers to"** when adopting a shortened version of a term for use throughout a statute.

Example: **Sec. 3. "Population" refers to the population according to the most recent federal special or decennial census.**

Example: **Sec. 4. There is established the Elkhart superior court (referred to as "the court" in this chapter).**

- (d) Use **"has the meaning set forth in IC . . ."** to reference an existing definition.

Example: **Sec. 5. "Products" has the meaning set forth in IC 6-1.1-3-13.**

The elements of a definition may be tabulated.

Form in New Articles

When adding a new article, put the definitions for that article in one chapter with each definition in a separate section in alphabetical order. The first section in the definitions chapter should be an applicability section as follows:

Sec. 1. The definitions in this chapter apply throughout this article.

The definition sections themselves should begin with the defined term itself.

Example: Sec. 2. "Incorporated entity" means a . . .

Form in New Chapters

When adding a new chapter, put each of the definitions in separate sections at the beginning of the chapter in alphabetical order. Each definition section should begin with a statement of applicability:

Example: Sec. 2. As used in this chapter, "incorporated entity" means a . . .

Adding Definitions to Existing Articles and Chapters

When it is necessary to add a new definition to an existing chapter or article, the manner in which the

definition is added will depend upon the definitions style that is used in that chapter or article.

Definitions in New and Recodified Titles:

When adding or recodifying a new title, all definitions used in the title should be inserted in alphabetical order in a chapter at the beginning of the title. Definitions should not be inserted throughout the rest of the title.

Definitions in Certain Recently Recodified Titles:

Recently recodified titles include Titles 9, 13, 14, 16, 31, and 34. These titles have all been recently recodified under the supervision of the Code Revision Commission. In addition, Title 12 was substantively amended and reorganized in 1992. The Code Revision Commission has slightly varied the format for definitions in recodified titles over the years.

In Titles 9, 12, 13, 14, and 16, all definitions used in a title appear at the beginning of the title. However, if a definition is used in only one chapter or one section of the title, the text of the definition appears in the chapter or section and only a reference to the term is placed in the Definitions Chapter at the beginning of the title (e.g. Sec. 1. “Computer” has the meaning set forth in IC....(the body of the title”).)

In the most recently recodified titles, Titles 31 and 34, all definitions appear in alphabetical order at the beginning of the title. None of the definitions appear throughout the text of the title.

Adding a Definition to a Recodified/Revised Title (Title 9, 12, 13, 14, 16, 31, or 34):

The new definition should be added in alphabetical order as a decimal point section, if necessary.

Code Definitions and Construction Provisions

IC 1-1-4 contains a list of definitions and construction provisions that apply to all Code provisions and incorporates by reference the criminal law definitions set forth in IC 35-41. Avoid defining these terms differently in other parts of the Indiana Code.

(5) Creation of Agency or Office

Use simple language in the present tense to create or establish an agency, commission, or office.

Example: The office of _____ is [created][established] in the department of _____.

Example: The state recount commission is established.

(6) Criminal and Civil Penalties

Crimes

Felonies and misdemeanors constitute crimes under Indiana law. Crimes carry a potential penalty of imprisonment, and any fines imposed on persons convicted of crimes must be deposited in the common school fund.

IC 35-50-2 describes the four classes of felonies, and IC 35-50-3 describes the three classes of misdemeanors. All crimes should be classified into one of these statutory classes. [See **EXHIBIT 20, Page 97**].

Ordinarily, a culpability standard should be included in the provision defining a crime. The standards recognized in Indiana are "intentionally", "knowingly", and "recklessly". [See IC 35-41-2-2 for descriptions of these standards.]

Civil Violations

Infractions and ordinance violations constitute civil violations. They are not criminal offenses (for which a person can be imprisoned) and do not need to be proved beyond a reasonable doubt. Infractions are defined by state statutes, while ordinance violations are defined by local government ordinances. The procedures governing civil violations are set forth in IC 34-28-5.

Infractions

There are four classes of infractions [see IC 34-28-5], and the amounts collected as judgments for violations of statutes defining infractions are deposited in the state general fund. Do not draft provisions describing a violation of a local ordinance as an infraction, since infractions carry state penalties.

Ordinance Violations

Counties, cities, towns, and some other local governmental entities, such as hospital corporations and airport authorities, have the power to provide penalties for violation of their own ordinances. Counties, cities, and towns are limited in this area by IC 36-1-3-8. Do not include a specific penalty for violating a local ordinance in a statute. The local entity should provide penalties for violations in its own ordinances, and these ordinances should specify the fund in which fines should be deposited.

Form Generally

Properly drafted felony, misdemeanor, and infraction provisions are shown by the following examples:

Example: **A person who recklessly kills another human being commits reckless homicide, a Class D felony.**

Example: **A person who knowingly serves as a member of a precinct election board in violation of IC 3-6-6 commits a Class A misdemeanor.**

Example: **A person operating a vehicle who fails to dim bright or blinding lights when meeting another vehicle or pedestrian commits a Class B infraction.**

Avoid providing a general penalty for violation of any provision of a chapter, article, or title. General penalty provisions can be overly broad and may produce unintended results.

(7) Population Parameters

When using a population parameter, the drafter must take great care to ensure that the population parameters are the most current parameters. The drafter should not rely on population figures contained in outside drafts. Note that rapidly growing areas are often subject to a special census. See IC 1-1-3.5.

(8) Appropriation Provisions

Since most appropriations are temporary in nature, they are drafted as noncode provisions. A few types of appropriations are ongoing and are drafted as Code provisions. Both types are discussed under the heading **SPECIFIC TYPES OF NONCODE PROVISIONS**, Pages 45-47.

(9) Funds

A fund is a sum of money segregated for the purpose of carrying on specific activities or attaining certain objectives. If it is necessary to establish a fund, the following form sets forth the issues that should be considered:

- Sec. __. (a) The [1] is established for the purpose of [2]. The fund shall be administered by [3].**
(b) The expenses of administering the fund shall be paid from money in the fund. [4]
(c) The treasurer of state shall invest the money in the fund not currently needed to meet the obligations of the fund in the same manner as other public money may be invested. (Interest that accrues from these investments shall be deposited in the fund.) [5]
(d) Money in the fund at the end of a state fiscal year does not revert to the state general fund. [6] (However, if the amount of money in the fund at the end of a particular fiscal year exceeds [7], the treasurer shall transfer the excess from the fund into the [8].)

Explanation:

[1] Insert the name of the fund.

[2] Insert the purpose of the fund, such as to:

- (A) receive taxes or other revenues for specific uses;
- (B) provide for the production or distribution of saleable goods and services; or
- (C) receive, hold, and disburse funds as a fiduciary.

[3] Insert the name of the entity that is to administer the fund.

[4] This is an optional provision. Its use should be discussed with the author.

[5] This is an optional provision that should only be used in the case of trust funds, where specifically requested by the legislator, or where required by federal law.

[6] If this language does not appear, the money remaining in the fund at the end of a fiscal year automatically reverts to the state general fund if the money was originally appropriated from the state general fund (IC 4-13-2-19).

[7] This is an optional "scrape-off" or "spill-over" provision. Insert the dollar amount over which the fund should not grow.

[8] If an optional "scrape-off" provision is used, insert the name of the fund into which the excess money is to be deposited.

(10) Legislative Oversight:

In budgetary matters, if oversight by the state budget committee is desired, the drafter should use language similar to that found in the following statutes, because of separation of powers considerations: IC 4-34-3-2(c); IC 4-34-3-4; IC 6-3.1-15-17; IC 21-6.1-2-8(d); IC 36-7-31-12.

(11) Executive Committees and Commissions: Travel Expenses, Per Diem, Membership, Voting Practices, and Other Procedural Matters

When establishing a committee or commission, the drafter must determine what, if any, per diem is to be provided to the committee or commission members. In addition, because of separation of powers considerations, legislative members on executive committees should be nonvoting members.

The following language should be used for a committee or commission that will be controlled by the executive branch [Note: Delete inappropriate subsections]:

Sec. __. (a) As used in this section, "committee" ["commission"] refers to the [insert name of committee/commission].

(b) There is established the _____ committee [commission] on _____ [insert subject matter]. The committee [commission] consists of the following members:

(1)

(2) (et cetera)

(c) ____ [Insert appointing authority] shall appoint ____ the chairperson of the committee [commission].

(d) The committee [commission] shall study ____.

(e) The _____ shall staff the committee [commission].

(f) The expenses of the committee [commission] shall be paid from [insert fund or other source of payment].

(g) Each member of the committee [commission] who is not a state employee is [is not] entitled to the minimum salary per diem provided by IC 4-10-11-2.1(b). The member is also [is, however,] entitled to reimbursement for traveling expenses as provided under IC 4-13-1-4 and other expenses actually incurred in connection with the member's duties as provided in the state policies and procedures established by the Indiana department of administration and approved by the budget agency.

(h) Each member of the committee [commission] who is a state employee [but who is not a member of the general assembly] is entitled to reimbursement for traveling expenses as provided under IC 4-13-1-4 and other expenses actually incurred in connection with the member's duties as provided in the state policies and procedures established by the Indiana department of administration and approved by the budget agency.

(i) Each member of the committee [commission] who is a member of the general assembly is entitled to receive the same per diem, mileage, and travel allowances paid to legislative members of interim study committees established by the legislative council. Per diem, mileage, and travel allowances paid under this subsection shall be paid from appropriations made to the legislative council or the legislative services agency.

(j) Each member of the committee [commission] who is a member of the general assembly is a nonvoting member.

(k) The affirmative votes of a majority of the voting members appointed to the [committee] [commission] are required for the [committee] [commission] to take action on any measure, including final reports.

(12) Legislative Committees and Commissions: Travel Expenses, Per Diem, Membership, and Other Procedural Matters

When establishing a legislative study committee or commission, the following language should be used:

"SECTION ___. [EFFECTIVE _____] [Sec.] 1. (a) As used in this SECTION [section], "committee" ["commission"] refers to the interim study committee on [insert subject matter] established by this SECTION.

(b) There is established the interim study committee [commission] on [insert subject matter]. The committee [commission] shall study _____.

(c) The committee [commission] shall operate under the policies governing study committees adopted by the legislative council.

(d) The affirmative votes of a majority of the voting members appointed to the [committee] [commission] are required for the [committee] [commission] to take action on any measure, including final reports.

(e) This SECTION [section] expires [insert date]."

(Each year the Legislative Council establishes the procedures for legislative study committees, which provide for the appointment of the chairman, the number of members, per diem and mileage, funding, and other matters.)

See (13) infra for a discussion of Voting Practices of Legislative Committees.

(13) Voting Practices for Legislative Committees Created by Statute

The Legislative Council requires that the affirmative votes of a majority of the voting members appointed to a legislative committee or commission are necessary for the legislative committee or commission to take action on any measure, including final reports. The following language must be included whenever a permanent or temporary legislative commission or committee is established by statute:

Sec. __. The affirmative votes of a majority of the voting members appointed to the [committee] [commission] are required for the [committee] [commission] to take action on any measure, including final reports.

(14) Administrative Rules

To allow or to require an agency to adopt administrative rules, the following form should be used:

Sec. __. The [name of the agency] may [shall] adopt rules under IC 4-22-2 to implement this [section, chapter, article, title].

To prohibit an agency from adopting administrative rules on a certain matter, the following form may be used:

Example: The air pollution control board may not adopt a rule requiring vehicle emission testing in certain counties.

[Note: See **Transfer of Responsibilities to Successor Agencies**, Page 43, for provisions transferring rules from one agency to another.]

(15) Construction Provisions

Construction provisions state the manner in which statutes are to be construed. IC 1-1-4 sets forth rules of construction that apply throughout the Indiana Code. Individual construction provisions may be used only if a matter cannot be clarified in the substance of the bill itself or in a preamble to the bill. In that case, the construction provision should be drafted as a Code provision [see the discussion of **Preamble** and **Purpose Provisions** on Pages 25 and 32].

(16) Nonseverability Provisions

Under IC 1-1-1-8(b) each part of every statute is severable unless a nonseverability provision is included in the statute. If a statute contains a nonseverability provision and if any part of that statute is declared invalid, the whole statute is void. Whether a nonseverability provision should be drafted as amendatory of the Indiana Code or not depends upon the situation. For example, a nonseverability provision must be inserted in the Code whenever it is necessary to indicate that one provision of the Code should be void if another is held invalid or unconstitutional. If the amendments made by a particular act to an existing Code section are to be void if the amendments made by another SECTION of that act to another existing Code section are held invalid, the nonseverability provision should be drafted as a Code provision. If, on the other hand, one noncode provision is to be void if another noncode SECTION of a bill is held invalid, the nonseverability provision should be drafted as a noncode provision.

Examples:

Sec. __. For the purposes of IC 1-1-1-8, if any part of this chapter [title, article, or section] is held invalid, the entire chapter [title, article, or section] is void.

Sec. __. For the purposes of IC 1-1-1-8, if section [chapter] __ of this chapter [article] is held invalid, section [chapter] __ is also void.

Sec. __. For the purposes of IC 1-1-1-8, if the amendments to section __ of this chapter made by SEA [HEA] 23-2000, SECTION __, are held invalid, the amendments to section __ of this chapter made by SEA [HEA] 23-2000, SECTION __, are void.

SECTION __. For the purposes of IC 1-1-1-8, if any part of this SECTION is held invalid, SECTION __ of this act is also void.

(17) Expiration Provisions

Introduction

If a provision is to expire on a certain date and that date is more than five years after enactment so that the provision may not be drafted as a noncode provision, the provision must contain a statement of its expiration.

For an article, chapter, or section, an expiration section [or subsection] is required at the end of the article, chapter, or section:

Sec. __. This article [chapter] expires _____, 20__.

(g) This section expires _____, 20__.

Often, however, applicability provisions are clearer [see p.32].

(18) Vehicle Bills

The rules and legislative procedures committee of the house of representatives and members of the Indiana senate may introduce vehicle bills. A vehicle bill contains no amended text but may be amended later in the legislative process in order to insert the desired text. (If a drafter receives a request for a vehicle bill, contact the director of the drafter's office. No drafting is required, as model vehicle bills are available through the legislative services agency's bill drafting system.)

Example:

A BILL FOR AN ACT to amend the Indiana Code concerning natural and cultural resources.

Be it enacted by the general assembly of the State of Indiana:

SECTION 1. IC 14 is amended concerning natural and cultural resources.

I. REPEALERS

(1) Code Provisions

A repealer SECTION may not repeal less than an entire Indiana Code section. If less than an entire Indiana Code section must be removed from the law, the text should be stricken by amendment.

The repealer for a single Indiana Code provision should be written as follows (note that capital letters are used):

SECTION __. IC _____ IS REPEALED [EFFECTIVE JULY 1, 2000].

The repealer for two or more Code provisions should be written as follows:

SECTION __. THE FOLLOWING ARE REPEALED [EFFECTIVE JULY 1, 2000]: IC __; IC __;
IC __; IC __; IC __.

If an entire title, article, or chapter is to be repealed, the repealer should not list each of the Code sections within the title, article, or chapter.

(2) Noncode Provisions

A repealer SECTION may not repeal less than an entire noncode SECTION. If less than an entire noncode SECTION must be removed from the law, the text should be stricken by amendment.

The repealer for a noncode provision added beginning with the 1982 Special Session should be written as follows:

SECTION __. P.L. __-19__, SECTION __, IS REPEALED [EFFECTIVE JULY 1, 1996].

The repealer for a noncode provision added beginning in 1971 and through the 1982 Regular Session should be written as follows:

SECTION __. ACTS __, P.L. __, SECTION __, IS REPEALED [EFFECTIVE JULY 1, 1996].

The repealer for noncode provisions in acts enacted before 1971 should be written as follows:

SECTION __. ACTS __, C.__, S.__, IS REPEALED [EFFECTIVE JULY 1, 1996].

J. NONCODE PROVISIONS GENERALLY

(1) Defined

Noncode provisions are acts or parts of acts that are not included in the Indiana Code. Provisions that are not part of the general and permanent statute law of Indiana are ordinarily excluded from the Code.

If a provision does not apply to the state generally, but instead applies only to a particular situation or class, it is "special" legislation (Article 4, Section 22 of the Constitution of the State of Indiana) and not included in the Code. Examples include property transfer acts, where the state authorizes the sale or transfer of a particular piece of land that it owns, and amendments to pre-1852 charters of corporations for towns, churches, cemeteries, or businesses.

If a provision has a general application, but is not permanent law, it is considered "temporary" legislation and may be drafted as a noncode provision. Generally, temporary provisions include those that:

- (a) contain a specific termination date that is within five (5) years of the date of passage of the act;
- (b) provide for transitional or implementary matters in an otherwise permanent act; or
- (c) terminate by implication when their purpose is fulfilled or ceases to exist.

The drafter should not place a temporary, transitional, or self-terminating provision in the Indiana Code unless there are compelling articulable reasons (including time constraints during critical points during the legislative session) for doing so.

Noncode provisions are sometimes called "fall-away" SECTIONS, since these SECTIONS are included in the bound session laws (Acts), but "fall away" after that and are not included in the Indiana Code or its supplements. Noncode SECTIONS are often set forth in annotated, unofficial publications of the Indiana Code (published by West and Burns) in notes following the related Code sections.

(2) Expiration Date

Include a statement of expiration in each temporary noncode provision for which the expiration date is known.

Example: **(b) This SECTION expires July 1, 2000.**

K. SPECIFIC TYPES OF NONCODE PROVISIONS

(1) Transitional Provisions

Initial Terms; Staggered Terms

Provisions for initial terms of officers or members set forth the procedure for staggering the terms or for making the transition from one entity to another entity.

Example: SECTION __. [EFFECTIVE JULY 1, 2000] (a) **The initial terms of office for the four (4) individuals appointed to the bureau of motor vehicles commission by the governor under IC 9-15-1-2 are as follows:**

- (1) **One (1) member for a term of one (1) year.**
- (2) **One (1) member for a term of two (2) years.**
- (3) **One (1) member for a term of three (3) years.**
- (4) **One (1) member for a term of four (4) years.**
- (b) **The initial terms begin July 1, 2000.**
- (c) **This SECTION expires July 1, 2004.**

Example:

SECTION __. [EFFECTIVE JULY 1, 1996] (a) **Notwithstanding IC 33-5-8-1(b), as added by this act, the judge of the Bartholomew county court on June 30, 1996, is entitled to serve as the initial judge of the Bartholomew superior court No. 2 for a term beginning July 1, 1996, and ending December 31, 1997.**

(b) **The initial election of a judge of the Bartholomew superior court No. 2 is the general election to be held November 6, 1997. The person elected in that election takes office January 1, 1998.**

(c) **This SECTION expires January 2, 1998.**

Transfer of Responsibilities to Successor Agencies

A provision transferring rules from one agency or entity to another may be written as follows:

Example: SECTION __. [EFFECTIVE UPON PASSAGE] **The rules adopted by the stream pollution control board before April 1, 2000, concerning solid waste management are considered, after March 31, 2000, rules of the solid waste management board.**

A provision transferring property from one agency or entity to another may be written as follows:

Example: SECTION __. [EFFECTIVE JANUARY 1, 1997] **On January 1, 1997, the state department of public welfare becomes the owner of all the personal property of the county departments of public welfare abolished by this act.**

A provision transferring funds from one agency or entity to another may be written as follows:

Example: SECTION __. [EFFECTIVE JULY 1, 1997] (a) **The funds that remain in a county's county welfare fund and the county welfare trust clearance fund on December 31, 1997, that are attributable to administration, facilities, supplies, and equipment, as determined by the state board of tax commissioners, shall be transferred to the state and deposited in the state welfare fund.**
(b) **This SECTION expires January 1, 1998.**

Interim Administrative Rules

Under the administrative rule adoption procedure (IC 4-22-2), it usually takes six months or more for a rule to progress from its proposed form to its taking effect. Occasionally it is necessary to draft a temporary provision to provide that interim guidelines apply while formal rules are being adopted under IC 4-22-2. This temporary provision should be a noncode SECTION. The following form is suggested:

Example: SECTION __. [EFFECTIVE UPON PASSAGE] (a) **Notwithstanding IC _____, as added [amended] by this act, the state fire marshal [or other agency] shall carry out the duties imposed upon it under IC _____ under interim written guidelines approved by the state fire marshal [or other agency head].**

(b) **This SECTION expires on the earlier of the following:**

(1) **The date rules are adopted under IC _____.**

(2) **_____ [a date by which rules can be reasonably adopted].**

Note that IC 4-22-2-19 permits agencies to begin the rulemaking process before the statute authorizing the rule becomes effective.

(2) Legalizing Provisions

A legalizing provision is a statute passed to:

(a) cure defects in prior law; or

(b) validate legal proceedings, instruments, or acts of public and private administrative authorities;

that, in the absence of the legalizing provision, would be void for want of conformance with existing legal requirements, but that would have been valid if the statute had so provided at the time of the action. Because the purpose of a legalizing provision is fulfilled on its effective date, the provision should be drafted as a noncode provision. For examples of some legalizing provisions, see P.L.10-1988, SECTION 239, and P.L.42-1988, SECTION 5.

Statutes may be retrospective only if:

(a) contract rights are not impaired (Article 1, Section 24 of the Constitution of the State of Indiana);
or

(b) existing rights are not affected.

The constitutional prohibition against ex post facto laws applies only to criminal statutes.

(3) Savings Provisions

Introduction

A savings provision is designed to preserve rights or liabilities that have already accrued. There is a general savings provision located at IC 1-1-5-1 that preserves penalties, forfeitures, or liabilities. It states that:

Sec. 1. . . the repeal of any statute shall not have the effect to release or extinguish any penalty, forfeiture, or liability incurred under such statute, unless the repealing act shall so expressly provide; and such statute shall be treated as still remaining in force for the purpose of sustaining any proper action, or prosecution for the enforcement of such penalty, forfeiture, or liability.

Note that this provision does not have the effect of saving rights accrued under a statute. Generally, it is not the intent of the general assembly to perpetuate rights under repealed provisions, but if that is the intent in a particular instance, a specific noncode savings provision is required.

A savings clause should be included in a bill only if the general savings clause is not adequate and there is some uncertainty that cannot be removed in the specific language of the bill. In such a case, the savings provision should be made noncode.

Example: SECTION __. [EFFECTIVE UPON PASSAGE] **This act does not affect:**
(1) **rights or liabilities accrued;**
(2) **penalties incurred;**
(3) **crimes committed; or**
(4) **proceedings begun;**
before the effective date of this act. Those rights, liabilities, penalties, crimes, and proceedings continue and shall be imposed and enforced under prior law as if this act had not been enacted.

Codification

See **EXHIBIT 22, Page 100**, as an example of a savings clause inserted in a recodified title.

(4) Severability Provisions

A severability provision (also sometimes referred to as a separability clause) provides that if any part of an act is found invalid the remainder of the act should be upheld. The Indiana Code contains a general severability provision at IC 1-1-1-8 (b) that applies to all Indiana statutes. If a severability provision is required to be included in a bill, it should be drafted as a noncode provision since the Code already contains the general severability provision.

Example: SECTION __. [EFFECTIVE UPON PASSAGE] **The provisions of this act are severable in the manner provided by IC 1-1-1-8(b).**

Nonseverability provisions can be drafted as noncode provisions when the bill is a noncode bill. [See **Nonseverability Provisions**, Page 40.]

(5) Appropriation Provisions

There are two types of appropriations, **continuing** and **temporary**.

Continuing

A continuing appropriation is an annual and continuing appropriation or an appropriation that exceeds five years. This type of appropriation should be drafted as a Code provision.

The general assembly usually likes to retain control over agencies through the appropriations process and, therefore, does not want legislation that annually appropriates money without an affirmative act. Occasionally, however, the general assembly will want to provide an ongoing appropriation known as a continuing appropriation. If properly drafted, a continuing appropriation appropriates money to an agency without further action by the general assembly. Of course, the general assembly can always change its mind and remove the continuing appropriations language or supersede it in a budget act. A continuing appropriation is drafted as amendatory of the Code as follows:

Sec. __. There is annually appropriated to [1] [2] from [3] for its use in [4].

Explanation:

[1] Insert the full statutory title of the agency to receive the funds.

[2] Insert the amount of money to be appropriated. If there is no definite dollar amount, insert the method to be used to compute the maximum possible amount of the appropriation.

[3] Insert the source of the money, such as "the state general fund".

[4] Insert the purposes for which the funds are to be used. This purpose may be expressed in general terms such as "carrying out the purposes of this chapter".

Don't say:

The general assembly shall appropriate . . .

or

The general assembly may appropriate . . .

These phrases are significant only to the extent that they indicate the present intent of the general assembly as to future funding. Since one general assembly cannot bind another, these phrases do not themselves provide for funding.

Temporary

A temporary appropriation is for a specific period of time not to exceed five years. This type of appropriation should be drafted as a noncode provision. The following form should be followed for a temporary appropriation:

SECTION __. [EFFECTIVE JULY 1, 2000] **There is appropriated to [1] [2] from [3] for its use in [4] [5].**

Explanation:

[1] Insert the full statutory title of the agency to receive the funds.

[2] Insert the amount of money to be appropriated. If there is no definite dollar amount, insert the method to be used to compute the maximum possible amount of the appropriation.

[3] Insert the source of the money, such as "from the state general fund".

[4] Insert the purpose for which the funds are to be used. This purpose may be expressed in general terms such as "carrying out the purposes of IC _____".

[5] Insert the period of time (not to exceed five years) for which the appropriation is made. For example, for a state fiscal year say, "beginning July 1, 20__, and ending June 30, 20__". For most appropriations, it is best to appropriate the money at the start of a fiscal year. However, do not use "fiscal year" and the specific dates of the fiscal year together since that would be redundant.

In the appropriation, note if it is in addition to or in place of money appropriated in a budget act. However, do this only if you know that the budget act made an appropriation for the same purpose.

Reversion

Appropriated funds that are not used or encumbered during the fiscal year or fiscal biennium for which they are appropriated revert to the state general fund unless otherwise provided by the appropriation or unless specifically covered by IC 4-13-2-19 . Do not state the fiscal year if reversion is not desired. If reversion is not desired, insert the following language:

Example: **The money appropriated by this section [SECTION] [act] does not revert to the state general fund at the close of any fiscal year but remains available to the state department of health [insert name of agency] until the purpose for which it was appropriated is fulfilled.**

(6) Special Relief Bills

A bill for special relief on behalf of a citizen to redress an alleged wrong of the state or a state agency may be drafted in such a manner that it is not in conflict with Article 4, Section 24 of the Constitution of the State of Indiana. Use the following form:

DIGEST

Citations Affected: None (noncode).

Synopsis: Provides special relief for ____ [insert the name of the person to receive the relief].

Effective: July 1, 2000.

A BILL FOR AN ACT for the special relief of ____ [insert the name of the person to receive the relief].

Be it enacted by the General Assembly of the State of Indiana:

SECTION 1. [EFFECTIVE JULY 1, 2000] **There is appropriated to __ [insert claimant's name], \$__ from the state general fund for special relief. This money is not appropriated for payment of damages but is provided solely out of humanitarian consideration for the wrongs done to __ [insert claimant's name].**

(7) Medicaid Waiver Provisions: See **EXHIBIT 21, Page 98**, for an example.

L. EFFECTIVE DATES

(1) Uniform Effective Date

IC 1-1-3-3 provides for a uniform effective date of July 1 for acts passed at a regular session of the general assembly. The uniform effective date should be included in the lead-in line for a SECTION, if the SECTION is to take effect on that date.

(2) Other Effective Dates

Effective dates other than the uniform date should be included in the lead-in line of the SECTION affected.

(3) Early Effective Dates

Article 4, Section 28 of the Constitution of the State of Indiana specifies that an act may take effect before it is published and circulated in all counties only if the general assembly declares an emergency in the act. **A separate noncode provision containing an emergency clause is required in the following cases:**

(a) The session is a long session and the effective date of an act precedes June 15.

(b) The session is a short session and the effective date of an act precedes May 1.

The noncode provision must be in the following form:

SECTION __. **An emergency is declared for this act.**

(4) Effective Dates for Code Provisions

An effective date affecting a code provision must be inserted in brackets in all roman capital letters before the colon in the lead-in line as follows:

SECTION __. IC 33-5-25-1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2000]:

(5) Effective Dates for Repealers

An effective date affecting a repealer must be inserted in brackets in all roman capital letters after the word "REPEALED" as follows:

SECTION __. IC 33-5-25-1 IS REPEALED [EFFECTIVE JULY 1, 2000].

SECTION __. THE FOLLOWING ARE REPEALED [EFFECTIVE JANUARY 1, 2000]:
IC 1-7-5-6; IC 12-17-4-3.

(6) Effective Dates for Noncode Provisions

An effective date affecting a noncode provision other than an amendment of another noncode provision must be inserted in brackets in all roman capital letters after the SECTION number as follows:

SECTION __. [EFFECTIVE JANUARY 1, 2000] **(a) The initial members. . .**

The effective date clause for the amendment of a noncode provision must be prepared in the same style as the effective date clause for a code provision.

SECTION __. P.L.18-1991, SECTION 1, IS AMENDED TO READ AS FOLLOWS
[EFFECTIVE JANUARY 1, 2000]: SECTION 1. . .

(7) Effective Dates Upon Passage

For a bill to take effect at the earliest possible time, say:

SECTION __. IC 4-21.5-3-4 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]:

The language "upon passage" has been interpreted to mean that the bill takes effect when signed by the governor or on the eighth day after presentment to the governor if the governor refuses to sign or veto the bill (Article 5, Section 14 of the Constitution of the State of Indiana). Ordinarily, however, it is best to provide for a specific effective date.

If a bill contains a SECTION that takes effect upon passage, the bill requires an emergency clause.

(8) Effective Dates to be Avoided

Avoid the use of "effective upon passage".

In long sessions, avoid effective dates from January 1 to May 14 of that year.

In short sessions, avoid effective dates from January 1 to March 31 of that year.

(9) Delayed Effective Dates

Avoid providing for an effective date beyond July 1 of the year following the year of enactment. Instead, it may be more practical to insert dates of application in the Indiana Code.

Example: **Sec. __. After July 1, 2004, the commissioner shall operate all license branches.**

(10) Fiscal Years

Often if an appropriation is involved, the bill will need to take effect at the beginning of the next fiscal year. Each state fiscal year runs from July 1 of one year through June 30 of the following year.

Example: **SECTION __. [EFFECTIVE JULY 1, 2000] One million dollars (\$1,000,000) is appropriated...**

[Note: The fiscal year for political subdivisions is January 1 through December 31, but the budget-making process for local government begins July 1 of the preceding year.]

(11) Retroactivity

If a SECTION is to take effect retroactively, say:

SECTION __. IC 4-21.5-3-4 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE _____, 20__ (RETROACTIVE)]:

If a bill contains a SECTION that takes effect retroactively, the bill requires an emergency clause.

(12) Contingent on Some Event

It is possible to draft legislation that will be applicable upon the occurrence or nonoccurrence of some future event. In drafting such a provision, comply with Article 1, Section 25 of the Constitution of the State of Indiana, which voids any act taking effect on any " authority outside that provided in the Constitution".

Example: **If a majority of the votes cast in the referendum favor the election of the members of the governing body, then IC 20-3-19 applies to the school**

corporation.

Provisions that might fail to comply with the constitutional requirement are as follows:

Don't say:

This act becomes effective when the Association of Electricians adopts standards to govern the installation of wiring.

or

This act becomes effective when the United States Drug Enforcement Agency adds the substances listed in this article to its list of controlled substances.

Chapter 4. Joint Resolutions

A. AMENDING THE CONSTITUTION OF THE STATE OF INDIANA

(1) Introduction

Amendments to the Constitution of the State of Indiana must be agreed to by two separately elected general assemblies. Once a joint resolution has passed one general assembly, it must then be presented to a second general assembly. If agreed to by the second general assembly, the amendment must be placed on the state election ballot and ratified by a majority of the voters (Article 16 of the Constitution of the State of Indiana).

(2) Printing Style Types

Amendments and additions to the Constitution of the State of Indiana are set forth in the same type style as are amendments and additions to the Indiana Code.

(3) Form

State the substance of the resolution and the action to date in the synopsis of the digest of a joint resolution. On the effective line of the digest, state the action still needed. The forms for first and second presentation are identical, except for differences in the digest and descriptive SECTION as noted:

(a) Digest

Example:

DIGEST

Citations Affected: Article ___, Section ___ of the Constitution of the State of Indiana.

Synopsis: Removes the ban on lotteries. This proposed amendment has been agreed to by one general assembly. [OR: This proposed amendment has not been previously agreed to by a general assembly.]

Effective: This proposed amendment must be agreed to by a second general assembly [OR: two consecutive general assemblies] and ratified by a majority of the state's voters voting on the question to be effective.

(b) Title

Amendment

A JOINT RESOLUTION proposing an amendment to Article ___, Section ___ of the Constitution of the State of Indiana concerning ___.

Addition

A JOINT RESOLUTION proposing an amendment to Article ____ of the Constitution of the State of Indiana by adding a new Section concerning ____.

Repealer

A JOINT RESOLUTION proposing an amendment by striking out Article ____, Section ____ of the Constitution of the State of Indiana.

[Note: The title upon second presentation is identical.]

(c) Resolving Clause

Be it resolved by the General Assembly of the State of Indiana:

[Note: The resolving clause upon second presentation is identical.]

(d) Body

Descriptive SECTION on First Presentation

SECTION 1. The following amendment to the Constitution of the State of Indiana is proposed and agreed to by this, the ____ [insert in words the number of that general assembly, e.g., One Hundred Seventh] General Assembly of the State of Indiana, and is referred to the next General Assembly for reconsideration and agreement.

Descriptive SECTION on Second Presentation

SECTION 1. The following proposed amendment to the Constitution of the State of Indiana, which was agreed to by the [insert in words the number of the preceding general assembly] General Assembly and referred to this General Assembly for reconsideration and agreement, is agreed to by this the ____ [insert in words the number of the current general assembly] ____ General Assembly of the State of Indiana.

Amendatory Provisions

(i) Amendment

SECTION 2. ARTICLE ____, SECTION ____ OF THE CONSTITUTION OF THE STATE OF INDIANA IS AMENDED TO READ AS FOLLOWS: Section ____ [insert a number] ____ [insert the actual amended language of the Constitution].

(ii) Addition

SECTION 2. ARTICLE ____ OF THE CONSTITUTION OF THE STATE OF INDIANA IS AMENDED BY ADDING A **NEW** SECTION TO READ AS FOLLOWS: Section ____ [insert a number] ____ [insert the new section's text].

(iii) Repealer

SECTION 2. THE CONSTITUTION OF THE STATE OF INDIANA IS AMENDED BY
STRIKING OUT ARTICLE ___, SECTION ___

[Note: The only difference between the first and second presentation in the body is in the descriptive section.]

B. RATIFYING A PROPOSED AMENDMENT TO THE UNITED STATES CONSTITUTION

To ratify a proposed amendment to the United States Constitution under Article V of the United States Constitution, the form is as follows:

DIGEST

Citations Affected: Article ___, Section ___, Clause ___ of the United States Constitution.

Synopsis: [Insert a brief description of the proposed change]

Effective: This United States Constitutional amendment must be ratified by 3/4 of the states to be effective.

A JOINT RESOLUTION providing for ratification of the proposed amendment to the Constitution of the United States concerning ___ [insert in concise terms the subject matter of the proposed change].

Whereas, Both Houses of the ___ [insert in words the number of the particular United States Congress, i.e., One Hundredth, etc.] ___ Congress of the United States of America, at the ___ [insert the number of that session] session of that Congress, adopted a Joint Resolution proposing to amend the Constitution of the United States in the following words:

"JOINT RESOLUTION

[Insert in quotation marks the EXACT text of the official document furnished by the federal General Services Administration]

Be it resolved by the General Assembly of the State of Indiana:

SECTION 1. That this proposed amendment to the Constitution of the United States of America is ratified by the general assembly of the State of Indiana.

SECTION 2. That certified copies of this Joint Resolution be forwarded by the Governor of Indiana to the Administrator of General Services, as required by 1 U.S.C. 106(b), as well as to the Secretary of State of the United States, to the President of the United States Senate, and to the Speaker of the House of Representatives of the United States.

C. CALLING A UNITED STATES CONSTITUTIONAL CONVENTION

Article V of the United States Constitution provides for two approaches to calling a constitutional convention to consider an amendment to the United States Constitution:

(1) Approach 1: Specific Language

DIGEST

Citations Affected: Article ___, Section ___, Clause ___ of the United States Constitution.

Synopsis: [Insert a brief description of the proposed change]

Effective: A constitutional convention is called when two-thirds of the state legislatures make application to the Congress to call a constitutional convention to consider an amendment to the Constitution of the United States.

A JOINT RESOLUTION directing the United States Congress to call a constitutional convention to propose an amendment to the Constitution of the United States concerning ___ [insert in concise terms the subject matter of the proposed amendment].

Be it resolved by the General Assembly of the State of Indiana:

SECTION 1. That the Congress of the United States is directed to call a constitutional convention for the purpose of proposing the following amendment to the Constitution of the United States:

"ARTICLE ...

[Insert in quotation marks the text of the proposed amendment]".

SECTION 2. That certified copies of this resolution be sent to the presiding officers of the Congress of the United States, to the Secretary of the Senate and the Clerk of the United States House of Representatives, and to the presiding officer of each chamber of each state legislature in the United States [and, possibly, to the members of the Congress of the United States from Indiana].

(2) Approach 2: General Subject Matter

DIGEST

Citations Affected: Article ___, Section ___, Clause ___ of the United States Constitution.

Synopsis: [Insert a brief description of the proposed change]

Effective: A constitutional convention is called when 2/3 of the state legislatures make application to the Congress to call a constitutional convention to consider an amendment to the Constitution of the United States.

A JOINT RESOLUTION requesting the Congress to call a constitutional convention for the purpose of proposing an amendment to the Constitution of the United States concerning ____ [insert in concise terms the subject of the proposed amendment].

Be it resolved by the General Assembly of the State of Indiana:

SECTION 1. That the general assembly of the State of Indiana makes application to the Congress of the United States for a convention under Article V of the Constitution of the United States for the specific and exclusive purpose of proposing an amendment to the Constitution of the United States ____ [insert in general terms a description of the purpose of the amendment].

SECTION 2. That certified copies of this resolution be sent to the presiding officers of the Congress of the United States, to the Secretary of the Senate and the Clerk of the United States House of Representatives, and to the presiding officer of each chamber of each state legislature in the United States [and, possibly, to the members of the Congress of the United States from Indiana].

Chapter 5. Concurrent Resolutions

A. GENERAL FORM

A concurrent resolution has a digest with a concise statement of the proposed resolution. Use the following form to draft a concurrent resolution:

A CONCURRENT RESOLUTION (congratulating, memorializing, urging, etc.)... [Insert in the title a concise statement of the proposed resolution]

Whereas, [Insert the preamble; it is not indispensable; as in the case of a simple resolution, its purpose is to give reasons for the resolution];

Whereas,;

Whereas,; and

Whereas,: Therefore,

Be it resolved by the House of Representatives [Senate] of the General Assembly of the State of Indiana, the Senate [House of Representatives] concurring:

SECTION 1. That

.....
[Insert the text of the resolution; like the body of a bill, the body is divided into SECTIONS numbered SECTION 1, SECTION 2, etc.]

SECTION 2. That

.....

SECTION 3. That

.....

B. INTERIM STUDY COMMITTEE FORM

If a legislator wants the general assembly to go on record in favor of establishing a particular interim study committee, a resolution may be adopted. Use the following form in that case:

A CONCURRENT RESOLUTION urging the establishment of an interim study committee on

Whereas, [if desired, insert the reasons the committee is needed]: Therefore,

Be it resolved by the House of Representatives [Senate] of the General Assembly of the State of Indiana, the Senate [House of Representatives] concurring:

SECTION 1. That the legislative council is urged to establish an interim study committee to ____
[Insert a concise statement of the purpose of the proposed study committee].

SECTION 2. That the committee, if established, shall operate under the direction of the legislative council and that the committee shall issue a final report when directed to do so by the council.

Chapter 6. Simple Resolutions

The legislative services agency does not ordinarily prepare simple resolutions. These are usually prepared on floor motion forms by the majority or minority attorneys. A digest and title are not used in a simple resolution. However, a salutation is placed before the preamble.

See **EXHIBIT 35 (Page 124)** and **EXHIBIT 36 (Page 127)** for forms used in drafting a simple resolution.

Chapter 7. Post-Introductory Drafting

A. REFERENCE LINES

When preparing to amend a bill at any stage of the legislative process, the first thing the drafter must do is to note which version of the bill is to be amended, i.e., the introduced version, the first printing, or the engrossed printing. The amendment itself must contain a statement at the end (known as the reference line) indicating which version is being amended.

(1) Introduced Version (First House Committee Amendments)

If the introduced version of the bill is to be amended by the first house committee, a reference line must be inserted at the end of the amendment as follows:

(Reference is to SB [HB] ____ as introduced.)

(2) First Printing (First House Floor Amendments and Second House Committee Amendments)

After an introduced bill is passed out of the first house committee and the committee report is adopted on the floor, the bill is printed for the first time. This version of the bill may be amended on second or third reading in the first house or by a second house committee.

(a) Second or Third Reading Floor Amendments

If the first printing is to be amended on second or third reading in the first house, the amendment must contain a reference line as follows:

(Reference is to SB [HB] ____ as printed _____, 20__.)

(b) Second House Committee Amendments

No Floor Amendments

If the first printing of the bill is not amended on second or third reading and the bill is passed out of the first house, it is the first printing of the bill that the second house committee will consider. If the second house committee is to amend the bill, the amendment must contain a reference line referring to the first printing as follows:

(Reference is to SB [HB] ____ as printed _____, 20__.)

Unincorporated Floor Amendments

If:

(i) the first printing of the bill was amended on second or third reading;

(ii) the bill was passed out of the first house;

(iii) the second or third reading amendments are not incorporated into a reprinted version of the bill; and

(iv) the second house committee is to amend the bill;

the amendment must contain a reference line referring to the first printing and to the unincorporated

first house floor amendments as follows:

(Reference is to SB [HB] ____ as printed _____, 20____, and as amended on motion of Senator [Representative] _____ adopted _____, 20____, and on motion of Senator [Representative] _____ adopted _____, 20____.)

Unincorporated Committee of One Report

If there are unincorporated changes that are made in the committee report of a Committee of One, the reference line should read as follows:

(Reference is to SB [HB] ____ as printed _____, 20____, and as amended by the committee report of the committee of one adopted _____, 20____.)

Unincorporated Technical Corrections

If there are unincorporated changes that are made by Senate Rule 34 or House Rule 67 technical corrections, the reference line should read as follows:

(Reference is to SB [HB] ____ as printed _____, 20____, and as corrected under Senate Rule 34 [House Rule 67] _____, 20____.)

(3) Reprinted First Printing (Second House Committee Amendments)

Sometimes a bill will be reprinted to incorporate second reading amendments. This reprinted version will be printed on yellow paper and will contain the date on which it was reprinted. If a second house committee is to amend a reprinted bill, the amendment must contain a reference line as follows:

(Reference is to SB [HB] ____ as reprinted _____, 20____.)

(4) Engrossed Printing (Second House Floor Amendments)

After a bill is passed out of the second house committee and the committee report is adopted on the floor, the bill is again printed. This version of the bill is referred to as the engrossed printing.

(a) Second Reading Amendments

If the engrossed bill is to be amended on second reading in the second house, the amendment must contain a reference line as follows:

(Reference is to ESB [EHB] ____ as printed _____, 20____.)

(b) Incorporated Floor Amendments

If the engrossed bill is amended by the second house on second reading and the bill is reprinted (on yellow paper) to incorporate those amendments, any further amendment of the bill (such as on third reading or by a conference committee) must contain a reference line as follows:

(Reference is to ESB [EHB] ____ as reprinted _____, 20____.)

(c) Unincorporated Floor Amendments

If the engrossed bill is amended by the second house on second reading and the bill is not reprinted to incorporate those amendments, any further amendment of the bill (such as on third reading or by a conference committee) must contain a reference line as follows:

Example:

(Reference is to ESB [EHB] _____ as printed _____, 20__, and as amended on motion of Representative [Senator] _____ adopted _____, 20__, and on motion of Representative [Senator] _____ adopted _____, 20__.)

Example:

(Reference is to ESB [EHB] _____ as printed _____, 20__, and as amended by the committee report of the Committee of One adopted _____, 20__.)

(d) Unincorporated Technical Corrections

If there are unincorporated changes that are made by Senate Rule 33(c) or House Rule 67 technical corrections, the reference line must read as follows:

(Reference is to ESB [EHB] _____ as printed _____, 20__, and as corrected under House Rule 67 [Senate Rule 33(c)] _____, 20__.)

B. DRAFTING TERMINOLOGY

Use the following terminology whenever amending a bill. These instructions are for the benefit of the legislative printer, who must follow the instructions literally. **Because of computer programming, it is very important to always remember to include ending quotation marks when using quotation marks.** [See **AMENDMENT OF PROVISIONS NOT FOUND IN A PRINTED BILL**, Page 66, for additional rules affecting bills in the second house committee.]

A summary of commonly used drafting commands may be found in EXHIBIT 23, Page 106.

(1) Altering Introductory Clauses

To cause material to be removed, use "delete".

Example: Page 1, line 1, delete "AMENDED".

To cause material to be added, use "insert".

Example: Page 1, line 1, delete "AMENDED" and insert "ADDED".

(2) Altering Nonamendatory SECTIONS of a Bill (i.e., changes in a SECTION of the bill adding entirely new material such as a new section, a new chapter, and the text of a noncode SECTION.)

To cause material to be removed from text, use "delete" .

Example: Page 1, line 6, delete "article".

To cause material to be added to the text, use "insert".

Example: Page 1, line 6, delete "article" and insert "**chapter**".

(3) Altering Amendatory SECTIONS of a Bill (i.e., changes in text of a SECTION of the bill that amends a section of existing law.)

To cause material in bold type to be removed from text, use "delete".

Example: Page 1, line 6, delete "article".

To cause material in roman type to appear in cancelled type, use "strike".

Example: Page 1, line 7, strike "1979,".

To cause material to be added in bold type, use "insert".

Example: Page 2, line 7, after "director" insert "**or deputy**".

Example: Page 4, line 10, strike "agency" and insert "**commission**".

Example: Page 5, line 15, delete "district" and insert "**authority**".

To cause material in cancelled type to be reset in roman type, use "reset in roman".

Example: Page 3, line 8, reset in roman "commissioner".

[Note: Do not show the stricken material as stricken in the instruction to reset in roman.]

(4) Adding New SECTIONS to a Bill

To add an amendatory Indiana Code provision, use "insert:" and indicate the necessary typefaces.

Example: Page 1, between the enacting clause and line 1, begin a new paragraph and insert:

"SECTION 1. IC 5-6-7-1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 1997]: Sec. 1. A person ~~is authorized to~~ **may** ...".

To add a new Code provision or a noncode provision, use "insert:" and indicate the necessary typefaces.

Example: Page 6, between lines 21 and 22, begin a new paragraph and insert:

"SECTION ... IC 5-6-7-10 IS ADDED TO THE INDIANA CODE AS A **NEW SECTION** TO READ AS FOLLOWS [EFFECTIVE JULY 1, 1997]: **Sec. 10.**".

IMPORTANT NOTE: Always check the daily action file, the Table of Amendments, Repeals, and Additions, and the Comprehensive Citation Report to determine conflicts with other legislation. Make certain that all succeeding SECTIONS and references to SECTIONS in the bill are renumbered accordingly. Also, check the title, and, if necessary, recommend a title amendment to the majority attorney of the chamber considering the bill.

(5) Altering the Entire Body of a Bill by Bill Stripping

For inserting an entirely new body of text into a bill, use the following language:

Delete everything after the enacting clause and insert the following:

Because the subject matter of the new material is often different from that in the original bill, determine if a title amendment is necessary.

Avoid "stripping" a bill if the amendment can be done by use of line and page references. If the drafter or

legislator decides that bill stripping is still the best approach, check the rules of each house to determine its policy on bill stripping before proceeding.

Also keep in mind at conference committee time that if a conference committee inserts a totally new subject matter into a bill (material that has not previously been passed by one of the houses), the senate rules require that the conference committee report be referred to the Senate Committee on Rules and Legislative Procedures.

If that committee approves the report, the bill is then placed on a special calendar for consideration.

(6) Changing a Title

To amend an existing title or to add an entirely new title, say:

Delete the title and insert the following:

A BILL FOR AN ACT . . .

Avoid overly specific titles. Say "A BILL FOR AN ACT concerning local government" rather than "... concerning the fire protection district tax of the town of Spring Grove".

(7) Use of Quotation Marks

Material to be inserted in a bill should be enclosed by quotation marks, except when a bill is stripped.

Example: Page 8, between lines 9 and 10, begin a new paragraph and insert:

""Person" means an individual, a corporation, or a partnership."

(8) Renumbering SECTIONS of a Bill

To renumber the SECTIONS of a bill when a SECTION is added or removed, the drafter should renumber all of the SECTIONS of the bill by adding a renumbering command immediately before the reference line as follows:

Renumber all SECTIONS consecutively.

Whenever SECTIONS are renumbered, carefully check for any internal references to those SECTIONS that should be changed.

(9) Changing Effective Dates in One or More SECTIONS

Whenever an effective date is changed in a SECTION, the drafter can use individual line and page references or the drafter can change several consecutive SECTIONS of the bill at once. Remember that a separate noncode SECTION may be needed to declare an emergency in some cases. [See **Early Effective Dates**, Page 48.]

(a) Replacing Effective Dates in Several SECTIONS

Assume that a bill contains 15 SECTIONS and that SECTION 3 has been removed. To change the effective date in the remaining SECTIONS, use the following form:

Replace the effective dates in SECTIONS 4 through 15 with "[EFFECTIVE JULY 1, 2001]".

Note: When this command is used, it must be the first command in the document, except for a title amendment.

(b) Replacing an Effective Date in Only One SECTION

Page 3, line 16, delete "[EFFECTIVE JANUARY 1, 2000]" and insert "[EFFECTIVE SEPTEMBER 1, 2000]".

or

Replace the effective date in SECTION 3 with "[EFFECTIVE JANUARY 1, 2001]".

(10) Miscellaneous Drafting Commands

(a) To delete new material from or strike part of a line:

Don't say:

Page 1, line 6, after "an" delete [strike] the rest of the line.

Say:

Page 1, line 6, delete [strike] "individual who wishes to ride the".

(b) To delete or strike an entire line, say:

Page 1, delete [strike] line 6.

(c) To delete or strike two or more consecutive lines, say:

Page 2, delete [strike] lines 1 through 2.

(d) To strike an entire subsection or subdivision, strike the numeric or alphabetic designation at the beginning of the text being stricken.

Example:

...the following:

(1) Name of corporation.

~~(2) Address.~~

(2) State where incorporated.

(e) To delete one entire page, say:

Delete page 2.

(f) To delete two or more entire pages, say:

Delete pages 2 through 5.

(g) To begin a new paragraph, say:

Page 3, between lines 6 and 7, begin a new paragraph and insert:

"(b) A house trailer may be taxed once a year."

(h) To block indent, say:

Page 4, line 6, after "or" begin a new line block indented and insert:

"(1)".

(i) To double block indent, say:

Page 5, line 10, after "year." begin a new line double block indented and insert:

"(C) A license must be renewed each year."

(j) To have a line return to the margin, say:

Page 5, line 6, block left beginning with "commits".

(k) To begin a new line at the margin, say:

Page 10, line 5, begin a new line blocked left and insert **"must renew the license each year."**

(l) To have two lines run together that are separated by some type of indentation, say:

Page 1, run in lines 20 through 21.

Page 5, run in line 42 through page 6, line 1.

(m) To have two lines run together after an intervening line has been deleted, say:

Page 2, run in lines 30 and 32.

(n) To run in two lines that are being amended:

Be sure to make any necessary amendments to the lines being run in before using the run in command.

Example:

Page 1, line 1, strike "agency:".
Page 1, line 2, strike "(1) employee".
Run in lines 1 through 2.

(o) To delete or strike a word or numeral that appears more than once in a line, the command must identify which occurrence of the word or numeral is to be deleted or stricken.

Example: If page 4, line 15 reads as follows: "Sec. 1. Before July 1 of each year" and you wish to change July 1 to July 31,

Don't say:

Page 4, line 15, delete [strike] "1" and insert "31".

Say:

Page 4, line 15, delete [strike] "July 1" and insert "July 31".

(p) To add indentation or tabulation to a paragraph, say the following:

Example:

1 **The applicant must submit an affidavit that the applicant has completed the**
2 **training required under section 3 of this chapter and pay the annual fee**
3 **prescribed by the department before the department may issue a license to the**
4 **applicant.**

To insert indentation in the above paragraph, use the following commands:

Page 1, line 1, after "must" insert ":

(1)".

Page 1, line 2, after "chapter" insert ";

Page 1, line 2, after "and" insert:

"(2)".

Page 1, line 3, after "department" insert ";

Page 1, line 3, block left beginning with "before".

The resulting paragraph will look like this:

The applicant must:

(1) submit an affidavit that the applicant has completed the training required under section 3 of this chapter; and

(2) pay the annual fee prescribed by the department;
before the department may issue a license to the applicant.

[Note: Item (b) or (c) [Page 64] may be combined with item (h), (i), (j), or (k) in a single command.]

(q) To facilitate the smooth running of computer programs, avoid the term "before" in an amendatory command whenever possible.

C. AMENDMENT OF PROVISIONS NOT FOUND IN A PRINTED BILL (SECOND HOUSE COMMITTEE AMENDMENTS); TECHNICAL CORRECTIONS

Use the following techniques in preparing a committee amendment in the second house that affects floor amendments or technical corrections made earlier but not incorporated into the latest printed version of the bill. If an unincorporated amendment or correction is to be entirely deleted, begin the committee amendment by deleting the unincorporated amendment or correction. Also review the discussion on reference lines [see Pages 58-60] in this chapter.

(1) Deleting a Second Reading Amendment

To delete a second reading amendment in its entirety, say:

Delete the amendment made on motion of Senator [Representative] _____ adopted _____, 20__.

(2) Deleting a Part of a Second Reading Amendment

Technique 1: Delete the entire motion and then put back those parts of the amendment desired to be retained. This method is most useful when:

- (a) the committee wants to retain only a small part of a lengthy floor amendment; or
- (b) it is difficult to understand the effect of the amendment using page and line numbers.

Technique 2: The second method is to assume that the amendment is a part of the bill and to then remove the language that is to be deleted.

Example: Assume that a second reading motion had made ten amendments and that one of them was the following:

Page 10, line 7, after "account." insert "**The commissioner shall publish an annual fiscal report.**".

Now assume that the second house committee agreed with all the other changes in the second reading amendment, but the committee disagreed with the amendment enumerated above. That part of the amendment could be removed as follows:

Page 10, line 7, after "account." delete "The commissioner shall publish an annual fiscal report." as inserted on motion of Senator [Representative] _____ adopted _____, 20__.

If the second house committee wanted only to remove the word "fiscal" so that an annual report not limited to fiscal matters is required, the amendment could be amended as follows:

Page 10, line 7, after "annual" delete "fiscal" as inserted on motion of Senator [Representative] _____ adopted _____, 20__.

(3) Restoring Language Stricken in a Second Reading Amendment

Example:

Assume that a second reading amendment strikes language in a bill as follows:

Page 7, line 11, strike "and towns".

To restore this language say:

Page 7, line 11, reset in roman "and towns" as stricken on motion of Senator [Representative]
_____ adopted _____, 20__.

(4) Reinserting Language Deleted by a Second Reading Motion in an Amendatory SECTION.

Example:

Assume new language in an amendatory SECTION was removed on second reading as follows:
Page 5, line 21, delete "incorporated".

To restore this deleted language, say:

Page 5, line 21, after "applies to" insert "**incorporated**" as deleted on motion of Senator
[Representative] _____ adopted _____, 20__.

(5) Reinserting Language Deleted by a Second Reading Motion in a Nonamendatory SECTION.

The procedure to be followed when an earlier amendment has deleted language shown in bold in a nonamendatory bill is similar to reinserting language deleted by a second reading motion for an amendatory SECTION as described in item (4) above.

(6) Deleting Language that Includes an Amendment

If a second house committee decides to delete or strike several lines or an entire SECTION of a bill, and the part to be deleted or stricken was affected by a second reading amendment, say:

Page ____, delete [strike] lines 14 through 25, including the amendment to line ____ made on
motion of Senator [Representative] _____ adopted _____, 20__.

(7) Technical Corrections

If language in a bill is altered by a technical correction (Senate Rule 34 or House Rule 67) and the language is affected by later committee action, treat it in the same manner as floor amendments but make reference to the rule itself.

Example: Page 10, line 7, delete "incorporated" as inserted under Senate Rule 34 [House
Rule 67] _____, 20__.

To delete a technical correction in its entirety, say:

Delete the technical correction made under Senate Rule 34 [House Rule 67] _____, 20__.

D. CONFERENCE COMMITTEE REPORTS

(1) Introduction

Follow these steps when drafting a conference committee report:

- (a) Examine the daily action file to determine if further amendments are necessary to the latest printing

of the engrossed bill.

(b) If further amendments are necessary:

(i) insert a new title if needed; and

(ii) use page and line reference amendments to the selected printing. These amendments might include unincorporated amendments, language from other bills, or entirely new material.

Remember, if a conference committee report "contains subject matter not previously passed by at least one house", the drafter must notify the Senate Majority Attorney of that fact.

(c) Examine the Comprehensive Citation Report to determine if any SECTIONS of the bill as amended by the conference committee report conflict with the same Code provisions in other bills. If a conflict exists, notify the Office of Code Revision before proceeding.

(2) Checklist for a Conference Committee Report

A conference committee report must:

(a) refer to the latest printing of a bill;

(b) delete all unincorporated amendments and corrections;

(c) list all changes to that version that have been agreed to by the conferees; and

(d) include a comprehensive reference line.

[See **EXHIBIT 33, Page 118, and EXHIBIT 34, Page 121**, for examples.]

E. ALTERING PROVISIONS ADDED OR AMENDED EARLIER IN THE SAME SESSION

(1) Introduction

If a section of the Indiana Code is added or amended, the introductory clause and text for a later amendment to that section during the same session must reflect the prior addition or amendment. A reference to the prior amendment should be to the bill number and the year of the session in which it was enacted, separated by a hyphen. Bills enacted in a special session should also parenthetically reference the special session.

(2) Introductory Clause

Amendment of Section Previously Amended

SECTION ___. IC 5-10-3-34, AS AMENDED BY SEA [HEA] 23-1999 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2000]:

Amendment of Section Previously Added

SECTION ___. IC 5-10-3-34, AS ADDED BY SEA [HEA] 23-1999, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2000]:

Addition of a Provision to a Previously Added Chapter, Article, or Title

If a new section, chapter, or article is to be added to a chapter, article, or title previously added in the same session, it is necessary to refer to the legislation that added the new provision. For example, if HEA 1123-2000 added a new chapter at IC 4-12-9 and the addition of a new section 12 is desired, the lead in line should appear as follows:

SECTION ___. IC 4-12-9-12 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO THE **NEW** CHAPTER ADDED BY HEA 1123-2000, TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2000]:

(3) Text (Amendments Only)

The text set forth must be the latest version with all canceled type deleted and all bold type inserted in roman. The changes to be made by the later amendment should then be set forth in canceled or bold type.

(4) Effective Date

The later addition or amendment should be drafted so that it will not take effect before the prior addition or amendment.

F. JOINT RULE 20 CORRECTIONS

(1) Introduction

In Indiana, the legal effect of enacting two acts that technically conflict with each other is unsettled. However, the joint rules of the house and senate contain an extraordinary mechanism for making last-minute corrections to bills for the purpose of avoiding technical conflicts between acts. Under Joint Rule 20, a technical conflict exists when any of the following situations occurs:

- (a) If two bills amending the same section of the Indiana Code are approved in the same session of the general assembly and neither bill recognizes the existence of the other.
- (b) If one bill amends a section of the Indiana Code and another bill repeals that section with an effective date preceding the effective date of the amendment.
- (c) If two bills each add a new provision to the Indiana Code at the same Code citation without either bill recognizing the addition made by the other and both bills are approved in the same session of the general assembly.

(2) Committee Action

In any of the above situations, Joint Rule 20 provides that one of the two bills may be corrected at enrollment to recognize the existence of the other. The correction must be approved by both the Committee on Rules and Legislative Procedures of the House of Representatives and the Committee on Rules and Legislative Procedure of the Senate. However, a correction under the rule is limited to the extent necessary to resolve the technical conflict and may not be made unless the report of each of the two committees includes the written consent of the respective committee's ranking minority member. In addition, the committee report in each house must include the written consent of the corrected bill's author or sponsor, as the case may be.

(3) Preparation

The Office of Code Revision consults with the authors, sponsors, and house and senate attorneys regarding all technical conflict situations. A Joint Rule 20 correction should be prepared only after agreement has been reached that there is no other way to resolve a technical conflict. Follow these steps when drafting a Joint Rule 20 correction:

- (a) Determine the simplest, most direct way to resolve the technical conflict. Avoid methods that will require extensive changes to the text of one of the bills. Also avoid making changes that might appear to substantively affect one of the bills.
- (b) Use page and line reference amendments to the latest printing of the bill being corrected. These amendments might also need to include changes to unincorporated amendments, earlier technical corrections, or conference committee reports.
- (c) Recheck the comprehensive citation report to be certain that no new technical conflicts will be created by resolving an existing one.
- (d) Notify the staff of the house of origin that a Joint Rule 20 correction needs to be made to the bill at enrollment. The house or senate staff may have to make special arrangements to have the enrolled act printed with the Joint Rule 20 changes incorporated.

(4) Form:

Example:

JOINT RULE 20 CORRECTION

TO HB 1387

COMMITTEE REPORT

Mr. Speaker [Mr. President]: Pursuant to Joint Rule 20, your Committee on Rules and Legislative Procedures [Committee on Rules and Legislative Procedure], to which was referred Engrossed House Bill 1387 because it amends the same sections of the law as Senate Enrolled Act 461 and House Enrolled Act 1075 without properly recognizing the existence of those Acts, has had House Bill 1387 under consideration and begs leave to report back to the House [Senate] with the recommendation that House Bill 1387 be corrected as follows:

Page 56, line 39, delete "P.L.103-2000" and insert "SEA 461-2000,".

Page 56, line 40, delete "1985, SECTION 13,".

Page 56, line 44, delete "The docket" and insert "**These fees**".

Page 58, line 31, delete "P.L.167-2000" and insert "HEA 1075-2000,".

Page 58, line 32, delete "1984, SECTION 75,".

Page 59, line 1, delete "and".

Page 59, line 4, delete "." and insert "; **and**".

Page 59, between lines 4 and 5, begin a new line block indented and insert:

"(5) a redocketing fee, if any, of five dollars (\$5)."

Page 59, line 9, delete "said" and insert "**the**".

(Reference is to EHB 1387 as printed March 11, 2000.)

G. JOINT RULE 21 CORRECTIONS

(1) Introduction

If a bill has been passed by both houses and does not contain a needed emergency clause, the bill can be corrected at enrollment under Joint Rule 21. As is the case with Joint Rule 20 corrections, a Joint Rule 21 correction must be approved by the Rules Committee of the House and Senate.

(2) JOINT RULE 21 HOUSE FORM

COMMITTEE REPORT

Mr. Speaker: Pursuant to Joint Rule 21, your Committee on Rules and Legislative Procedures, to which was referred Senate [House] Bill _____ because it does not contain a needed emergency clause, has had Senate [House] Bill _____ under consideration and begs leave to report back to the House with the recommendation that Senate [House] Bill _____ be corrected as follows:

Page 36, after line 21, begin a new paragraph and insert:

"SECTION 46. **An emergency is declared for this act.**".

Renumber all SECTIONS consecutively.

(Reference is to ESB [EHB] _____ as reprinted April 10, 2000.)

Representative _____, Chairperson

Representative _____, R.M.M.

Representative _____, Sponsor [Author]

(3) JOINT RULE 21 SENATE FORM

COMMITTEE REPORT

Mr. President: Pursuant to Joint Rule 21, your Committee on Rules and Legislative Procedures, to which was referred Senate [House] Bill ____ because it does not contain a needed emergency clause, has had Senate [House] Bill ____ under consideration and begs leave to report back to the Senate with the recommendation that Senate [House] Bill ____ be corrected as follows:

Page 36, after line 21, begin a new paragraph and insert: "SECTION
46. **An emergency is declared for this act.**".

Renumber all SECTIONS consecutively.

(Reference is to ESB [EHB] ____ as reprinted April 10, 2001.)

Senator ____, Chairperson

Senator ____, R.M.M.

Senator ____, Sponsor [Author]

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